

CHAPTER 12

LICENSES AND PERMITS

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12.01 GENERAL PROVISIONS.

- (1) LICENSES OR PERMITS REQUIRED. No person shall engage in any trade, profession, business or privilege in the City for which a license or permit is required by any provision of this chapter without first obtaining such license or permit from the City in the manner provided in this chapter, unless otherwise specifically provided.
- (2) APPLICATION. Unless otherwise provided, application for a license or permit shall be made in writing to the City Clerk upon forms provided by the City Clerk and the applicant shall state the location of the proposed activity and such other facts as may be required for or to be applicable to the granting of such license or permit.
- (3) PAYMENT OF FEE. Except for alcohol beverage licenses and cigarette licenses, the fees required for any license or permit shall be paid at the office of the City Treasurer upon application for the license or permit. No fee paid shall be refunded unless the license or permit is denied. No alcohol beverage license or cigarette license shall be issued until the fee is paid.
- (4) BOND AND INSURANCE. All required bonds shall be executed by 2 sureties or a surety company and be subject to the approval of the City Attorney. Where policies of insurance are required, such policies shall be approved as to substance and form by the City attorney. Satisfactory evidence of coverage by bond or insurance shall be filed with the Clerk before the license or permit is issued.
- (5) FORM. Licenses and permits shall show the name of the licensee or permittee, the date of issue, the activity licensed and the term of the license or permit, and shall be signed in the name of the City by the City Clerk and be impressed with the City seal. The Clerk shall keep a record of all licenses and permits issued.
- (6) LICENSE AND PERMIT TERM. Except for alcohol beverage and cigarette licenses, which terminate on June 30 of each year, unless otherwise provided the term of the license year shall end on December 31 of each year. (2555 07/28/2020)
- (7) EXHIBITION OF LICENSES OR PERMITS. Every licensee or permittee shall carry his license or permit upon his person at all times when engaged in the activity for which the license or permit was granted, except that where such activity is conducted at a fixed place or establishment, the license or permit shall be exhibited at all times in some conspicuous place in his place of business. The licensee or permittee

shall exhibit the license or permit when applying for a renewal and upon demand of any police officer or person representing the issuing authority.

- (8) **TRANSFER.** Unless otherwise provided, no license or permit shall be transferable or assignable.
- (9) **RENEWAL.** Unless otherwise provided, license or permit renewals shall be issued in the same manner and be subject to the same conditions as the original license or permit.
- (10) **SUSPENSION AND REVOCATION OF LICENSES AND PERMITS.** Except as otherwise specifically provided, any license or permit granted under this chapter may be suspended or revoked by the Council for cause after giving the licensee or permittee an opportunity to be heard, as provided by law. Cause may include the following:
 - (a) Fraud, misrepresentation or incorrect statement contained in the application or made in carrying on the licensed or permitted activity.
 - (b) Conviction of any crime or misdemeanor, subject to §111.32, Wis. Stats.
 - (c) Conducting such activity in such manner as to constitute a breach of the peace or a menace to the health, safety or welfare of the public, or a disturbance of the peace or comfort of residents of the City upon recommendation of the appropriate City official.
 - (d) Expiration or cancellation of any required bond or insurance.
 - (e) Actions unauthorized or beyond the scope of the license or permit granted.
 - (f) Violation of any regulation or provision of this Code applicable to the activity for which the license or permit has been granted, or any regulation or law of the State so applicable.
 - (g) Failure to continuously comply with all conditions required as precedent to the approval of the license or permit.
- (11) **LICENSE CONDITIONS - NON-PAYMENT OF CITY TAXES AND CLAIMS.**
 - (a) No license shall be granted or renewed for the operation of any trade, profession, business or privilege, for which a license or permit is required by any provision of this Chapter, for operation upon any premises upon which taxes or assessments or other financial claims of the City, or of any City utility are delinquent and unpaid.
 - (b) No person who is delinquent in the payment of any taxes, assessments or other claims owed to the City, including a forfeiture resulting from a violation of any Ordinance of the City, shall be granted or

renewed any license for any trade, profession, business or privilege in the City for which a license or permit is required by any provision of this Chapter.

12.02 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES.

(2524 07/23/19)

- (1) **STATE STATUTES ADOPTED.** Except as otherwise specifically provided for in this section, the provisions of Ch. 125, Wis. Stats., are adopted and by reference made a part of this section as if fully set forth herein. A violation of any such provision shall constitute a violation of this section. Any future amendments, revisions or modifications of the statutory regulations in Ch. 125, Wis. Stats., are made a part of this section in order to secure to the extent legally practical uniform statewide regulation of alcohol beverages in the State of Wisconsin.
- (2) **DEFINITIONS.** Unless otherwise specified in this section, the definitions contained in §125.02, Wis. Stats., shall apply to this section.
- (3) **LICENSES REQUIRED.**
 - (a) No person shall vend, sell, deal or traffic in, or, for the purpose of evading any law or ordinance, give away any liquor or fermented malt beverages, or cause the same to be done, without having procured a license as provided in this section nor without complying with all provisions of this section, and all statutes, ordinances and regulations applicable thereto, whenever such license is required by state statute.
 - (b) A license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication to each other where liquor and fermented malt beverages are kept, sold or offered for sale.
 - (c) No license shall be issued to any person for the purpose of possessing, selling or offering for sale any liquor or fermented malt beverage in any dwelling, house, flat or residential apartment, except as otherwise permitted by state statute.
- (4) **LICENSE APPLICATION.** In addition to the license, application conditions and restrictions imposed by in §125.04, Wis. Stat., and §12.01, City Code, the following shall apply:
 - (a) All statements submitted by an applicant shall be true. Any applicant who submits an untrue statement in connection with any license application under this section shall be subject to a penalty as provided in §25.04 of this Code or §125.04(3)(j), Wis. Stat.. It shall be grounds for denial of a license if the applicant makes an untrue statement on any license application.

- (b) Applications for Temporary Class “B” licenses to be issued under §125.26(6), Wis. Stats., shall be filed with the City Clerk not less than 5 business days prior to the granting of the license.
 - (c) All applications shall be accompanied by the appropriate fee and the cost of publication, if applicable, however no fee shall be required to be paid more than 15 days prior to the date the license is to be issued, as per §125.04(8), Wis. Stat..
 - (d) As applicable, applicants shall attach a copy of their Seller’s Permit to the license application.
 - (e) A condition of granting a license, the applicant shall consent to a personal photograph and sign a waiver permitting the City to secure from the Federal Bureau of Investigation and the Wisconsin Crime Information Bureau a record check of the applicant and its officers, partners and agents. (1773 11/08/94)
- (5) APPLICATION INVESTIGATION AND REVIEW.
- (a) The City Clerk shall notify the Chief of Police, the Zoning Administrator, the Building Inspector, and the Fire Inspector, or their respective designees, regarding all license applications, except operator’s license applications which shall only be submitted to the Chief of Police. These officials shall cause an investigation to be made to determine whether the applicant and/or the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the City Clerk the information derived from such investigation.
 - (b) The City Clerk shall review and consider said reports and shall apply the licensing standards set forth in this section and in Ch. 125 Wis. Stats., and if the City Clerk finds that there is no reasonable basis for denying the license applied for, he/she shall: (2548 4/28/20)
 - i. Issue the license if it is an operator’s license, provisional operator’s license or temporary operator’s license, or, if it’s not an operator’s license,
 - ii. Recommend the issuance of the license to the Administrative Committee, which shall then make a recommendation to the Common Council.
 - (c) If the City Clerk determines that there is any reasonable basis for denying a license, he/she shall file his/her report and recommendations with the Administrative Committee. The Administrative Committee shall review and consider all reports filed with the Committee and shall file its report and recommendations with the Common Council, including any additional conditions or requirements that the Committee finds are necessary to fulfill the purpose and intent of this section. After reviewing the application and the reports referred to it by the Administrative Committee, the Council shall grant or deny the issuance of the license.
 - (d) Any person objecting to the granting of any license under this section shall file his/her objections and the basis therefore in writing with the City Clerk within 3 working days after the date of the last publication date of the legal notice published in the City newspaper pursuant to §125.04 Wis. Stats., or if the publication of a legal notice is not required, then any objections shall be filed within 3 business days of the filing of the application with the City Clerk.
 - (e) It shall be the duty of the City Clerk whenever an alcohol beverage license shall have been granted by Common Council, and the applicant shall have produced and filed with the City Clerk, proof of the satisfaction of any conditions or requirements imposed as a condition of granting the license and a receipt showing payment of any sums required for such license to issue to such applicant a license in accordance with the provisions of this section and of the laws of the State of Wisconsin. (1773 11/08/94, 2116 04/15/03)
 - (f) Provisional Operator’s License – A provisional operator’s license shall be issued by the City Clerk or his/her designee pursuant to §125.17(5)(1)(a), Wis. Stats., and consistent with the regulations of §125.17(5), Wis. Stat. regarding Provisional Operator’s Licenses.
- (6) LICENSE FEES. The fees for issuance of fermented malt beverage and intoxicating liquor licenses shall be as set forth in the City’s Official Fee Schedule.
- (7) OPERATOR’S LICENSE. Applications for an operator’s license shall be reviewed and considered in accordance with Subs. (4) above. A regular operator’s license shall be valid for a period of not more than two years and shall expire on June 30. A conditional operator’s license issued pursuant to the Current Standards Regarding Issuance of Bartender’s Licenses established by the Common Council shall be valid for a period of one year and shall expire on June 30. All applications shall be filed on or before June 15, provided that nothing shall prevent granting any licenses that are applied for at any other time for a fraction of the license period if the required license fee is paid. (1773 11/08/94, 2096 09/24/02, 2548, 04/28/20)
- (8) QUALIFICATIONS FOR LICENSES. The City incorporates the qualifications and eligibility

criteria for licenses as provided for in §125.04, Wis. Stat., and §12.01, City Code.

(9) **LIQUOR LICENSE QUOTAS.**

- (a) "Class B" Liquor License Quota. The number of retail "Class B" liquor licenses issued under this section is limited as provided in §125.51(4), Wis. Stats.
- (b) "Class A" Liquor License Quota. The number of "Class A" liquor licenses issued under this section is limited to one license for each 1,500 population of the City.

(10) **LICENSE CONDITIONS AND RESTRICTIONS.** In addition to the conditions and restrictions imposed by State law on the granting of a retail "Class A," "Class B," "Class C," "Class A," or "Class C" alcohol beverage license, the following conditions and restrictions shall apply: (1970 04/21/99)

- (a) Consent to Inspection of Premises. It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any police officer of the City without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. If such inspection is denied, such denial shall be deemed a violation of this section.
- (b) Violation by Agents or Employees. A violation of this section by a duly authorized agent or employee of a licensee shall constitute a violation of the licensee.
- (c) Sales to Underage Persons Prohibited. No alcohol beverages shall be sold, dispensed, given away or furnished to any underage person unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.
- (d) Sales by Clubs. No club licensed under §125.51(3)(e), Wis. Stats., shall sell alcohol beverages except to members and guests invited by members.
- (e) Cessation of Operations. If any licensee shall suspend or cease doing business for 6 consecutive months or more, his "Class A" retail liquor license or his "Class B" intoxicating liquor license or his Class "B" fermented malt beverage license shall be subject to revocation by the Council after a public hearing. The Council may, for a good cause shown, extend such 6-month period.
- (f) Transfer of License. No license shall be transferable from person to person except as provided by §125.04(12)(b), Wis. Stats., or from place to place, except as provided in §125.04(12)(a), Wis. Stats.
- (g) Location of Premises Restricted. No "Class A" or "Class B" license shall be issued for premises, the main entrance of

which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises. This paragraph shall not apply to premises licensed prior to June 30, 1947, or licensed prior to the location of the institutions enumerated above.

- (h) Safety and Health Requirements. No "Class B" license shall be issued unless the premises to be licensed conform to the sanitary, safety and health requirements of the State Building Code, the State Plumbing Code and the rules and regulations of the State Department of Health and Social Services applicable to restaurants, and also conform to all ordinances and regulations of the City.
- (i) Employment of Underage Persons. No "Class B" licensee shall employ any underage person, but this shall not apply to hotels, restaurants or grocery stores.
- (j) Clear View of Premises Required. No premises licensed for sale of alcohol beverages shall permit the view of the interior to be substantially obstructed from the street or sidewalk by the use of curtains, blinds, screens, posters, advertising signage, lighting, or in any other manner. The premises shall be properly and adequately lighted during the hours in which the sale of alcohol beverages is permitted. (2232 08/08/2006)
- (k) Disorderly Conduct and Gambling Prohibited. Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on any licensed premises.
- (l) Wearing Apparel. All persons involved in the operation of any licensed premises under this section, whether as licensee, member of the immediate family of the licensee, licensed operator, unlicensed operator under the supervision of the licensee or licensed operator, waiter, waitress, entertainer, dancer or any other employee, shall observe the following applicable minimum standards for such licensed premises:
 - 1. The costume, uniform or attire of any female shall be of nontransparent material and must completely cover the breasts below the top of the areola at all times. The lower portion of such costume, uniform or attire must be of nontransparent material and completely cover the person's

- pubic genitals and the buttocks at all times.
2. The costume, uniform or attire of any male shall be of nontransparent material and must completely cover the pubis area, genitals and buttocks at all times.
- (m) Nude Dancing in Licensed Establishments Prohibited. (1970 04/21/99)
1. It shall be unlawful for any person to perform or engage in, or for any licensee or manager or agent of a licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:
 - i. Shows his or her genitals, pubic area, vulva, anus, anal clef or cleavage with less than a fully opaque covering; and/or
 - ii. Shows any portion of the female breasts below a point immediately above the top of the areola; and/or
 - iii. Shows the covered male genitals in a discernible turgid state.
 2. The provisions of this subsection do not apply to the following licensed establishments: theaters, performing art centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.
 3. For the purposes of this subsection, the term "Licensed Establishment" means any establishment licensed by the Common Council of the City of Baraboo to sell alcohol beverages pursuant to Ch. 125, Wis. Stats., and the term "Licensee" means the holder of a retail "Class A", "Class B", "Class C", "Class D" or "Class E" license granted by the Common Council of the City of Baraboo pursuant to Ch. 125, Wis. Stats.
- (n) Posting of Licenses Required. Licenses or permits issued under this section shall be posted and displayed as provided in §15.04(10), Wis. Stats., and any licensee or permittee who shall fail to post his license or permit as therein required shall be presumed to be operating without a license.
- (o) Loud Noise Prohibited. No licensee shall permit or allow the use or operation of sound amplifying equipment on the licensed premises in such manner that the sound emanating from said equipment through any open window, open doorway or other opening of the licensed premises is unreasonably loud so as to disturb the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.
- (p) Leaving Premises With Open Container Prohibited. No licensee shall permit or allow any person to leave the licensed premises with an open container that contains any alcohol beverage.
- (q) Premises to be Promptly Vacated at Closing Hour. No alcoholic beverage shall be sold or consumed upon any licensed premises after the official closing hour for said licensed premises, and said premises shall be promptly vacated at such closing hour by all persons except the owner and regular employees of the licensed premises except that a licensed premises whose principal business is the furnishing of some other commodity or service may remain open after the official closing hour solely for the furnishing of such other commodity or services, provided that all alcoholic beverages contained in such premises be placed in padlocked cases promptly at the closing hour and shall be kept padlocked during official closed hours. (1493 02/23/88)
- (r) Unlawful to Deliver Off Premises. (1629 11/12/91) No retail alcohol beverage licensee or permittee shall deliver any alcohol beverage to the purchaser thereof at any location other than on the licensed premises, where "deliver" means the actual transfer of physical possession.
- (s) Compliance with Code. No new or renewal licenses shall be issued for any premises with an outstanding violation of any applicable building, plumbing or electrical code or of any code relating to fire hazards or the prevention of fires. If any such violation exists, it shall be cause for withholding the license or renewal thereof until the necessary corrections have been made and certified by the building inspector or the fire chief and if such violations are

not corrected within a reasonable time, the license may be denied. (1714 12/22/93).

- (t) Assignment of Vacant or Surrendered Alcohol Licenses. The City of Baraboo shall use the following criteria and priority for the assignment of alcohol licenses that become vacant, are surrendered, or unused:

1. In circumstances in which an alcohol license is surrendered, but where the premises are sold, leased, or will otherwise be used by a new business owner, the new business owner shall have first claim upon the surrendered license, regardless of whether there are other pending applications for an alcohol license.
2. In circumstances in which an alcohol license is vacant or surrendered, and the premises will not be used by a new business owner, the following criteria shall be applied:
 - i. If there are issued reserve licenses, the regular license shall be offered first to the owner of the oldest reserve license. If the license is not claimed, it shall then be offered to the next oldest reserve license, and so on, for as many reserve licenses as may be outstanding.
 - ii. If the City holds only one remaining license (regular or reserve), such license shall only be assigned after review by the Administrative Committee and approval of the Council.” (2439 01/26/16)

- (11) **CLOSING HOURS.** No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages, as follows:

- (a) Wholesale License. Between 5:00 P.M. and 8:00 A.M., except Saturdays when the closing hour shall be 9:00 P.M.
- (b) Retail Class B Licenses. For consumption on the premises where sold, between the hours of 2:00 a.m. and 6:00 a.m. except on Saturday and Sunday, the closing hours shall be between 2:30 a.m. and 6:00 a.m.; on January 1, there are no closing hours. Between the hours of 12:00 midnight and 8:00 a.m. daily, no person may sell any packaged fermented malt beverage in the original package for consumption off the premises. Between

the hours of 9:00 p.m. and 8:00 a.m. daily, no person may sell any intoxicating liquor or wine in the original package or container for consumption off the premises. (1499 03/22/88, 1514 05/24/88)

- (c) Reserved. (Repealed by Ord. 1500 03/22/88)
- (d) Hotels and Restaurants. Hotels and restaurants the principal business of which is the furnishing of food and/or lodging to patrons, and bowling alleys and golf courses, shall be permitted to remain open after closing hours for the conduct of regular business, but shall not sell intoxicating liquors or malt beverages during the closing hours stated in par. (c) above.
- (e) Presence on Premises After Closing Hour Restricted.
 1. Any person who is not an employee of the licensee who remains on the premises after the designated closing hour is subject to the penalties as provided in this chapter.
 2. Any person, including, but not limited to, employees, licensees, owners or agents of a premises for which an alcohol beverage license has been issued, while on the licensed premises after closing, must be actively engaged in bona fide business activities and shall not consume alcohol beverages. (1864 04/16/96)
- (f) Hours of Sale for Retail “Class A” Intoxicating Liquor License. No person may sell any intoxicating liquor or wine in the original package or container for consumption off the premises between the hours of 9:00 p.m. and 6:00 a.m. daily.
- (g) Hours of Sale for Retail “Class A” Fermented Malt Beverage License. No person may sell any packaged fermented malt beverage in the original package for consumption off the premises between 12:00 midnight and 6:00 a.m. daily.

- (12) **SALE OF INTOXICATING LIQUOR, FERMENTED MALT BEVERAGES AND WINE IN ORIGINAL PACKAGE.** (1515 05/24/88; 2373 01/24/2012)) Pursuant to §125.51(3)(b), Wis. Stats., no person may sell intoxicating liquor in an original unopened package, container or bottle for consumption away from the premises in excess of 4 liters at any one time on any premises for which any "Class B" intoxicating liquor license or Class "B" fermented malt beverage license has been issued. However, packaged goods sales of fermented malt beverages and wine from such premises may be made in any quantity.

(12M) ONLINE ORDERING AND CURBSIDE
PICKUP OF ALCOHOL BEVERAGES
(2524 07/23/19)

- (a) No establishment shall allow the online purchase of alcohol beverages and curbside delivery of such purchases ("Click and Collect"), without first obtaining permission for an "Extension of Premises" from the Common Council, upon recommendation of the Administrative Committee, to license that portion of the establishment's parking lot that will allow vehicles to park for purposes of picking up their online order.
1. The licensee establishment shall file a detailed operation plan with the City's "Extension of Premises" form that clearly details how their "Click and Collect" operation will function. The operation plan shall include the licensee's protocol for assuring that underage persons and intoxicated persons do not pick up alcohol via the "Click and Collect" program.
 2. Failure of the licensee to provide a detailed operation plan with their "Extension of Premises" application shall result in the City Clerk not forwarding the "Extension of Premises" form to the Administrative Committee for consideration.
- (b) No establishment holding an alcohol beverage license shall allow online purchase and pick-up of alcohol beverages unless the sale is consummated on the licensed premises.
1. Payment for the purchase must be completed on the premises and may not be completed until the purchaser is at the licensed premises and has presented valid photo identification that has been verified by a licensed operator employed by the premises.
 2. The licensed operator must verify that the person placing the "Click and Collect" order is the same person picking up the order.
 3. The sale and delivery of "Click and Collect" purchases shall be made only by a licensed operator.
 4. No alcohol sales are permitted if the purchaser fails to present valid photo identification.
 5. The "Click and Collect" system must allow the purchase of alcohol to be denied without

affecting the remainder of the purchase.

- (c) Each "Click and Collect" transaction must capture and retain an image of the vehicle into which the order is being loaded for thirty (30) days.
 - (d) Each "Click and Collect" transaction must record and retain the following information for thirty (30) days:
 1. The name of the purchaser.
 2. The type of identification card presented and the number and expiration date of that identification card.
 3. The purchaser's date of birth.
 4. The license plate of the vehicle into which the order is being loaded.
 - (e) Pick-up of "Click and Collect" orders shall be between the hours of 8:00 a.m. and 8:00 p.m.
 - (f) There shall be a minimum four (4) hour waiting period between order time and pick-up time.
 - (g) Orders placed after 4:00 p.m. cannot be picked up until the following day.
 - (h) If the "Click and Collect" purchaser is not the driver of the vehicle into which the order is being loaded, the licensed operator must verify that the driver is 21 years of age or older.
 - (i) The licensed operator shall report to his or her manager any purchaser who shows signs of alcohol consumption, and in conjunction with the manager, shall assess sobriety for purposes of approving or denying the sale.
 - (j) The pick-up area for "Click and Collect" purchases shall be clearly defined with visible markings, signs, and/or barriers.
 - (k) The pick-up area for "Click and Collect" purchases shall be equipped with a fully functioning video surveillance system. The system shall record all transactions occurring in the pick-up area that involve alcohol sales. The licensee shall retain all video recordings for no less than sixty (60) calendar days.
 - (l) No events other than the delivery of "Click and Collect" orders shall be allowed on the expanded premises.
- (13) OUTDOOR ALCOHOL IN B-1 CENTRAL BUSINESS DISTRICTS(2423 10/14/2014)
- The sale and consumption of alcohol outdoors in the B-1 Central Business District shall comply fully with the requirements of this section. All outdoor licensed premises must be applied for and approved as licensed premises.
- (a) Sidewalk sale and consumption. The sale and consumption of alcohol by a licensed premise upon the sidewalk shall be regulated by the requirements of this section.
1. Use of the sidewalk shall comply with the requirements of §8.04,

Ordinances, related to sidewalk use permits. The sidewalk premise must be contiguous to the licensed premise. An unimpeded minimum clearance of four (4') feet shall be maintained for pedestrian traffic upon the sidewalk.

2. The sidewalk shall be an approved premise for the licensee.
 3. Alcohol shall only be served to patrons who are seated at tables. Customers shall not be allowed to congregate or stand, regardless of whether they are consuming alcohol.
 4. Alcohol shall only be served to patrons in conjunction with an order of food.
 5. The sidewalk use area shall be vacated by 10:00 PM.
 6. No amplification of sound is allowed in the sidewalk area.
- (b) Non-sidewalk sale and consumption. The sale and consumption of alcohol by a licensed premise in an outdoor area not a sidewalk shall be regulated by the requirements of this section.
1. The outdoor area shall be an approved premise for the licensee.
 2. The approved premises shall be contiguous to the indoor premises.
 3. The outdoor premise must be surrounded by a solid (so as to restrict the passing of alcohol outside the fence and to limit noise) structure fence six feet in height. Entry to the outdoor premise shall be restricted to entry from the building and not from a public way. However, for premises contiguous with the Baraboo River, only a three foot fence shall be required.
 4. The outdoor premises shall be promptly vacated no later than 10:00 PM by all customers and patrons, except the owner and regular employees of the licensed premises and then only for the purpose of cleaning up.
 5. All outdoor licensed premises shall comply with all fire regulations including emergency exits and be subject to inspection by the Fire Inspector.
 6. The outdoor licensed premises shall only be used for serving food and permitted alcohol beverages and no part of said area shall be used for recreational activities, such as, for example, volleyball, horseshoes, darts, softball. No music shall be broadcast

directly into the outdoor area by means of outdoor speakers or jukeboxes, nor shall live music be permitted.

7. Lighting of the outdoor area shall not be of such intensity or brilliance as to be a hazard or dangerous distraction to vehicular traffic. All lighting for the outdoor premises shall be down-directed lighting and shall comply with the requirements of §17.47(3)(c)14, Ordinances.

(13M) OUTDOOR ALCOHOL IN B-3 HIGHWAY ORIENTED BUSINESS DISTRICTS (2489 04/24/2018) The sale and consumption of alcohol outdoors in the B-3 Highway Oriented Business District shall comply fully with the requirements of this section.

- (a) Sidewalk sale and consumption. The sale and consumption of alcohol beverages upon the sidewalk is prohibited.
- (b) Non-sidewalk sale and consumption. The sale and consumption of alcohol by a licensed premise in an outdoor area not a sidewalk shall be regulated by the requirements of this section.
 1. The outdoor area shall be described in detail on the license application and must be on the same lot as the licensed indoor premises. Alcohol possession and consumption in any area of not described in detail on the license application is strictly prohibited.
 2. The outdoor area must be surrounded by a fence which is (a) a minimum of three feet in height, (b) a minimum of 50 percent opaque (meaning the spaces between the pickets are equal to or less than the width of the pickets), and (c) maintained in a structurally sound and attractive manner.
 3. Entry to the outdoor area shall be restricted to entry from the same lot as the licensed indoor premises and not from a public way.
 4. The outdoor area shall be promptly vacated no later than 10:00 PM by all customers and patrons, except the owner and regular employees of the licensed premises and then only for the purpose of cleaning up.
 5. The outdoor area shall comply with all fire regulations including emergency exits and be subject to inspection by the Fire Inspector.
 6. The outdoor area may be used for recreational activities, such as, for example, volleyball, horseshoes, darts, and softball. No music shall be

- broadcast directly into the outdoor area by means of outdoor speakers or jukeboxes, nor shall live music be permitted, except with a special permit. However, no recreational activities shall be allowed on parcels that are contiguous with a residential zoning district. For purposes of determining contiguity, any parcel used by, or serving the business, including parking, shall be considered a portion of the licensed business.
7. Lighting of the outdoor area shall not be of such intensity or brilliance as to be a hazard or dangerous distraction to vehicular traffic. All lighting for the outdoor premises shall be down directed lighting and shall comply with the requirements of §17.47(3)(c)14, Ordinances.
- (c) Outdoor Musical Entertainment Permit. Entertainment in an outdoor licensed premise shall be allowed by special permit based upon the following requirements:
1. Musical Entertainment shall be allowed no more than four times per calendar year.
 2. The requirements of subsection (c), supra, are met. However, amplification of voices and instruments shall be allowed so long as the entertainment does not violate §9.06(2), Ordinances, Loud and Unnecessary Noise.
 3. All permits for Musical Entertainment shall be approved by the Chief of Police, who, in consultation with the Fire Inspector, may set additional specific requirements to be met prior to the issuance of a permit. Such restrictions shall be reasonably based upon the size of the premises, and the location of the premises in proximity to residential property.
- (14) UNDERAGE PERSON; PRESENCE IN PLACES OF SALE. Pursuant to §125.07(3), Wis. Stats., an underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age may not enter or be on any premise for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except as permitted by §125.07(3)(a)1-16, Wis. Stat.
- (15) UNDERAGE PERSON; CONSUMPTION AND POSSESSION OF ALCOHOL BEVERAGES. Pursuant to §125.07(4)(b), except as provided by §125.07(4)(bm), Wis. Stats., no underage person not accompanied by a parent, guardian or spouse who has attained the legal drinking age may knowingly possess or consume alcohol beverages.
- (16) REVOCATION OR SUSPENSION OF LICENSE. (2311 07/28/2009) The provisions of §125.12, Wis. Stats., shall be applicable to proceedings for revocation or suspension of licenses granted under this section, in addition to the following provisions:
- (a) Summons. Upon the filing of the complaint, the Administrative Committee shall issue a summons, signed by the City Clerk and directed to any peace officer in the municipality. The summons shall command the licensee complained of to appear before the Committee on a day and time and at a place named in the summons, not less than three (3) days and not more than ten (10) days from the date of issuance, and show cause why the license should not be revoked or suspended. The summons and a copy of the complaint shall be served on the licensee at least three (3) days before the time at which the licensee is commanded to appear. Service shall be in the manner provided under Ch. 801, Wis. Stats., for service in civil actions in circuit court.
 - (b) Procedure on Hearing.
 1. If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the Committee finds the allegations sufficient, the license shall be revoked. The Clerk shall give notice of the revocation to the person whose license is revoked.
 2. The Administrative Committee shall serve as the hearing agency for the Common Council. The chair of the Committee or the chair's designee shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. So far as practicable, the rules of evidence provided in §227.45, Wis. Stats., shall be followed. The complainant shall have the burden of proving the charges by a preponderance of the evidence.
 3. If the licensee appears as required by the summons and denies the complaint, both the complainant and the licensee may produce witnesses, cross-examine witnesses and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his or her expense. All proceedings and testimony shall be recorded on tape and transcribed unless waived by both the

complainant and licensee. If either party requests a stenographic recording and transcription, City staff shall make the necessary arrangements, but the expense shall be borne by the requesting party. The City Clerk shall mark and receive all exhibits admitted into the record.

4. Within twenty (20) days of the completion of the hearing, the Committee shall submit a report to the Common Council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the Common Council should take with respect to the license. The Committee shall provide the complainant and the licensee with a copy of the report. Either the complainant or the licensee may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the Common Council. The Common Council shall determine whether the arguments shall be represented orally or in writing or both.
5. If the Common Council, after considering the Committee's report and any arguments presented by the complainant or the licensee, finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation, the license shall be suspended or revoked as provided below. If the Common Council rejects or modifies the report, the Common Council shall adopt appropriate findings of fact and conclusions of law. If the recommendation of the Administrative Committee is based upon a stipulation of the parties, the Common Council may accept or reject the recommendation by a simple majority vote. If the Common Council rejects the recommendation, the matter shall be referred back to the Committee for a full fact-finding hearing. If the recommendation is based upon a full fact-finding hearing, the recommendation shall become the decision of the Common Council unless reversed or modified by a simple majority vote. No further evidence shall be allowed before the Common Council.
6. If the City Council, after considering the Committee's report and any arguments presented by the complainant or

the licensee, finds the complaint to be true, or if there is no objection to the report recommending suspension or revocation, the license shall be suspended for not less than three (3) days nor more than ninety (90) days or revoked, except that, if a complaint under §125.12(2)(ag)4, Stats., is found to be true the license shall be revoked.

7. The decision of the Common Council shall be a final determination for purposes of judicial review. If the complaint is found to be true, the licensee shall pay to the City the actual cost of the proceedings.
8. The City Clerk shall give notice of each suspension or revocation to the person whose license is suspended or revoked.
9. If the Common Council finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the Common Council finds the complaint to be malicious and without probable cause, the costs shall be paid by the complainant. The Common Council or committee may require the complainant to provide security for such costs before issuing the summons under §3125.12(2)(ar). (§125.12(2)(b)4, Stats.)

- (c) Effect of Revocation. See §125.12(2)(c), Wis. Stat.
- (d) Judicial Review. See §125.12(2)(d) Wis. Stat.
- (e) Nonrenewal of License. The Police Chief may, after investigation, commence an action before the Administrative Committee to hear evidence and make a recommendation to the Common Council that a license issued pursuant to this chapter not be renewed. The Chairperson shall, in writing, notify the licensee of the consideration of nonrenewal. Such notification shall be in the form of and shall serve as the summons and complaint and shall include a statement of the reasons for the consideration of the nonrenewal of the license in the same specificity required for a summons and complaint for revocation or suspension. If the license is recommended for nonrenewal, costs may be assessed against the licensee and any renewal application fee shall be forfeited. In all other respects, the provisions of Subdivisions (c) and (d) shall apply.
- (f) Other Provisions. Any license issued pursuant to Chapter 12 of the Baraboo

Code of Ordinances shall be subject to such further regulations and restrictions as may be imposed by the Common Council of the City of Baraboo by amendment to this section or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such new restrictions and regulations her/his license may be revoked in accordance with this section. In case of revocation of any license or any violation of any provision of this ordinance in accordance with this section or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.

(g) Point Values for Alcohol Beverage Violations and Revocations and Suspensions. A demerit point system shall be used to identify habitually troublesome license holders who have repeatedly violated state statutes and Baraboo Ordinances, for the purpose of recommending suspension or revocation of their alcohol beverage licenses. The scale of demerit points is listed according to the type of alcohol beverage violation.

1. Violations, How Calculated. In determining the accumulated demerit points against a license within twelve (12) months, the City shall use the date each violation was committed as the basis for the determination.
2. Formal Expression of Concern. In those instances in which a license has accumulated four (4) demerit points in a 12-month period as determined by the Police Chief, the Committee shall call before it the license for purposes of a formal expression of concern. If the license appears, no discussion of the alleged facts underlying the assessment of demerit points shall be permitted unless the license requests such discussion but only if the licensee is advised that any statements made by

the license and/or her/his representatives regarding the alleged facts may be considered by the Committee in any subsequent suspension/revocation hearing which may result from the alleged violations which are the subject of the formal expression of concern.

3. Suspension or Revocation of License. The Administrative Committee shall call before it for purposes of a revocation or suspension hearing all licensees who have accumulated seven (7) points in a twelve-month period as a result of court imposed convictions or who have had referred to it reports from the Police Chief which, if believed, would result in seven (7) demerit points in twelve (12) months.

i. If the demerit point accumulation, calculated from the date of violation, meets or exceeds seven (7) points in a 12-month period, the Committee may suspend the license. If suspended, the suspension shall be for not less than three (3) days or more than ninety (90).

ii. If the demerit point accumulation, calculated from the date of violation, meets or exceeds 10 points in a 12-month period, the Committee may revoke the license. If the license is revoked, no other license shall be granted to such licensee for a period of twelve (12) months from the date of revocation.

4. Severability. The several terms and provisions of this section shall be deemed severable, and if any provision hereof or the application hereof to any person or circumstances is held invalid, the remainder of the section and the applicability of such provisions to other persons and circumstances shall not be affected thereby.
5. Demerit Points: The following demerit points shall be issued for the offenses as shown:

Code Section	Offense	Demerit Points
§12.02(12M)	"Click and Collect" violation	2
§12.02(10)(c)	Traffic to underaged person	2
§12.02(1) adopting §125.07(2) Stats	Traffic to Intoxicated Person	2
§12.02(14)	Underaged person on premises	1
§12.02(10)(n)	Failure to post license	1
§12.02(10)(a)	Failure to allow premises inspection	2
§12.02(10)(o)	Noise violations	1
§12.02(11)(b)	Sales/dispense after hours	1
§12.02(10)(q)	Open after hours	1

§12.02(10)(p)	Leaving with open container	1
§12.02(10)(k)	Gambling	1
§12.02(10)(j)	Unobstructed view violation	1
§12.02(10)(l)	Improper wearing apparel	2
§12.02(1) adopting §125.68(2) Stats	No licensed bartender on premises	2
§12.02(10)(k)	Disorderly Conduct	1/2
§12.02(8)(c)	No licensed agent	2
	Any other offense under Ch. 125 Statutes or Ch. 12, Baraboo Ordinances	1

(17) **NONRENEWAL OF LICENSE.** Before renewal of any license issued under this section is refused, the licensee shall be given written notice of any charges or violations or the reasons proposed for non-renewal and a copy of any proposed motion for non-renewal and shall have an opportunity to be heard before the Council.

(18) **RESERVED.**

(19) **ENFORCEMENT.** Any person violating any provision of this section shall be subject to a penalty as provided in §25.04 of this code. Nothing in this sub-section shall in any way diminish the authority of the Common Council to suspend, revoke, or non-renew any license issued pursuant to this section for any violation of this section or grounds enumerated in this section or in Ch. 125 of Wisconsin Statutes. (2166 11/26/04)

12.03 REGULATION AND LICENSING OF PAWNBROKERS, SECONDHAND ARTICLE DEALERS AND SECONDHAND JEWELRY DEALERS. (1587 03/12/91; 2358 05/10/2011; 2375 03/27/2012; 2464 9/12/17; 2486 03/27/2018)

(1) **PURPOSE.**

(a) The City Council finds that the services offered by pawnshops, secondhand article dealers, and secondhand jewelry dealers provide an opportunity for individuals to readily transfer stolen property to those businesses. The Council also finds that consumer protection regulation is warranted in transactions involving these businesses. The Council further finds that pawnshops, secondhand article dealers, and secondhand jewelry dealers have outgrown the City's current ability to effectively or efficiently identify criminal activity related to them. The purpose of this section is to prevent pawnshops, secondhand

article dealers, and secondhand jewelry dealers from being used to facilitate the commission of crimes and to assure that they comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens, and pursuant to the authority granted by §134.71, Wis. Stats.

(b) This chapter implements and establishes the required use of an automated, computerized tracking system to help the Police Department better regulate current and future pawnshops, secondhand article dealers, and secondhand jewelry dealers to decrease and stabilize costs associated with the regulation of pawnshops, secondhand article dealers, and secondhand jewelry dealers and to increase identification of criminal activities in pawnshops, secondhand article dealers, and secondhand jewelry dealers through the timely collection and sharing of transaction information

(2) **DEFINITIONS.** For the purpose of this section, the following definitions shall apply:

(a) **“Article”** means any of the following items:

1. Audiovisual equipment.
2. Bicycles.
3. China.
4. Computers, printers, software and computer supplies.
5. Computer toys and games.
6. Crystal.
7. Electronic equipment.
8. Fur coats and other fur clothing.
9. Ammunition and knives.
10. Microwave ovens.
11. Office equipment.
12. Musical instruments.

13. Video tapes or discs, audio tapes or discs, video games, and other optical media.
 14. Silverware and flatware.
 15. Small electrical appliances.
 16. Cell phones.
- (a) “Billable transaction” means every reportable transaction except renewals, redemptions, voids, or extensions of existing pawns or purchases previously reported and continuously in the pawnbroker’s, secondhand article dealers’ or secondhand jewelry dealers’ possession.
 - (b) “Charitable organization” means a corporation, trust, or community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
 - (c) “Customer” means a person with whom a pawnbroker, secondhand article dealer, or secondhand jewelry dealer, or an agent thereof, engages in a transaction of purchase, sale, receipt, or exchange of any secondhand article.
 - (d) “Jewelry” or “piece of jewelry” means any tangible personal property ordinarily wearable on the person and consisting in whole or in part of any metal, mineral or gem customarily regarded as precious or semiprecious.
 - (e) “License” means a Pawnbroker License, Secondhand Article Dealer License, or Secondhand Jewelry Dealer License issued by the City Clerk.
 - (f) “Pawnbroker” means any person who engages in the business of lending money on the deposit or pledge of any article or purchasing any article with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price. To the extent that a pawnbroker’s business includes buying personal property previously used, rented, leased, or selling it on consignment, the provisions of this chapter shall be applicable. A person is not acting as a pawnbroker when engaging in any of the following:
 1. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem, or antique show, or a convention.
 2. Any transaction entered into by a person engaged in the business of junk collector, junk dealer, or scrap processor, as described in § 70.995(2)(x), Wis. Stats.
 3. Any transaction while operating as a charitable organization or conducting a sale, the proceeds of which are donated to a charitable organization.
 4. Any transaction between a buyer of a new article and the person who sold the article when new that involves any of the following:
 - a. The return of the article.
 - b. The exchange of the article for a different, new article.
 5. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.
 6. Any transaction as a seller of a secondhand article that the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.
 - (h) “Person” includes all natural persons, partnerships, associations and bodies politic or corporate.
 - (i) “Reportable transaction” means every transaction conducted by a pawnbroker, secondhand article dealer or and secondhand jewelry dealers in which an article or articles are received through a pawn, purchase, or trade, or in which a pawn is renewed, extended, voided, or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, and is reportable except as provided elsewhere in this chapter and except:
 1. The bulk purchase of new or used articles from a merchant, manufacturer, or wholesaler having an

- established permanent place of business, and the retail sale of said articles, provided the pawnbroker must maintain a record of such purchase or consignment that describes each item, and must mark each item in a manner that relates it to that transaction record.
2. Retail and wholesale sales of articles originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.
- (j) “Secondhand article” means an article or piece of jewelry owned by any person, except a wholesaler, retailer, or licensed secondhand article dealer, immediately before the transaction at hand.
- (k) “Secondhand article dealer” means any person, other than an auctioneer, who engages in the business of purchasing or selling secondhand articles, except when engaging in any of the following:
1. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show or a convention.
 2. Any transaction entered into by a person while engaged in a business for which the person is licensed pursuant to §134.71(2) or (4), Wisconsin Statutes, or while engaged in the business of junk collector, junk dealer or scrap processor as described in §70.995(2)(x), Wisconsin Statutes.
 3. Any transaction while operating as a charitable organization or conducting a sale the proceeds of which are donated to a charitable organization.
 4. Any transaction between a buyer of a new article and the person who sold the article when new which involves any of the following:
 - a. The return of the article for a different, new article
 - b. The exchange of the article for a different, new article.
5. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.
6. Any transaction as a seller of a secondhand article which the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.
7. Any transaction involving household appliances.
- (l) “Secondhand jewelry dealer” means any person, other than an auctioneer, who engages in the business of any transaction consisting of purchasing, selling, receiving or exchanging secondhand jewelry, except for the following:
1. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show or a convention.
 2. Any transaction with a licensed secondhand jewelry dealer.
 3. Any transaction entered into by a person while engaged in a business of smelting, refining, assaying or manufacturing precious metals, gems or valuable articles if the person has no retail operation open to the public.
 4. Any transaction between a buyer of new jewelry and the person who sold the jewelry when new which involves any of the following:
 - a. The return of the jewelry.
 - b. The exchange of the jewelry for different, new jewelry.
 5. Any transaction as a purchaser of secondhand jewelry from a charitable organization if the secondhand jewelry was a gift to the charitable organization.
 6. Any transaction as a seller of secondhand jewelry which the person bought from a charitable organization if the

secondhand jewelry was a gift to the charitable organization.

(3) INSPECTION OF ITEMS. At all times during the term of the license, the pawnbroker, secondhand article dealer, or secondhand jewelry dealer must allow the police department to enter the premises where the licensed business is located, including all off-site storage facilities, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, wares, merchandise, and records therein to verify compliance with this chapter or other applicable laws.

(4) LICENSE. No person may operate as a pawnbroker, secondhand article dealer, or secondhand jewelry dealer in the City unless the person first obtains a license under this chapter.

(5) DISPLAY OF LICENSE. Each license issued under this chapter shall be displayed in a conspicuous place visible to anyone entering a licensed premise.

(6) LICENSE APPLICATION. A person wishing to operate as a pawnbroker, secondhand article dealer, or secondhand jewelry dealer shall apply for a license to the City Clerk. The Clerk shall furnish application forms approved by the police department that shall require all of the following:

- (a) The applicant's name, date of birth, residence address, and residence addresses for the 10-year period prior to the date of the application.
- (b) The name, date of birth, resident address and business address of the owner of the licensed premises.
- (c) Whether the applicant is a natural person, corporation, limited liability company, or partnership, and:
 1. If the applicant is a corporation, the state where incorporated and the names, dates of birth and resident addresses of all officers and directors.
 2. If the applicant is a partnership, the names, dates of birth and resident addresses of all partners.
 3. If the applicant is a limited liability company, the names, dates of birth and resident addresses of all members.

4. The names, dates of birth and resident addresses of the managers and employees who work at the licensed premises.

5. Any other information that the Clerk may reasonably require.

(d) A statement as to whether the applicant or any other person listed in subsection (c), above, has an open and pending criminal, misdemeanor or forfeiture charge that is substantially relates to the circumstances of the licensed activity and/or has been convicted within the preceding ten years of a felony, misdemeanor, statutory violation punishable by forfeiture, county and/or municipal ordinance violation in which the circumstances of the felony, misdemeanor or other offense substantially relates to the circumstances of the licensed activity and, if so, the nature and date of the offense and the penalty assessed.

(e) Whether the applicant or any other person listed in subsection (c), above, has ever used or been known by another name, and if so, the name or names used and information concerning dates and places used.

(f) Whether the applicant or any other person listed in subsection (c), above, has previously been denied or had revoked or suspended a pawnbroker, secondhand article dealer or secondhand jewelry dealer license from any other governmental unit. If so, the applicant must furnish information as to the date, location, and reason for the action.

(7) PRE-LICENSE INVESTIGATION. The Baraboo Police Department shall investigate each applicant and every person listed in section 5(c), above, prior to a license being issued to determine whether the applicant or any person listed in section 5(c), above, has been convicted within the preceding ten years of a felony or within the preceding ten years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor or other offense substantially related to the circumstances of the licensed activity and, if so, the nature and date of the offense and the penalty assessed. The Baraboo Police Department shall furnish the information derived from that investigation in writing to the City Clerk.

(8) LICENSE ISSUANCE.

- (a) The City Clerk shall grant the license if all of the following apply:
 - 1. The applicant and every person listed in section 5(c), above, does not have an open or pending charge or conviction record as described in section 6, above.
 - 2. Pawnbroker applicants must provide to the City Clerk a license bond of \$500 with not less than two sureties for the observation of all municipal ordinances or state or federal laws relating to pawnbrokers, secondhand article dealers, or secondhand jewelry dealers. The bond must be in full force and effect at all times during the term of the license. (2507 11-27-18)
 - 3. The applicant paid the license fee, with said fee approved by the Common Council on an annual basis. The license fee is non-refundable and shall not be prorated. A copy of the license fee rates shall be on file with the City Clerk.
- (b) No license issued under this subsection may be transferred.
- (c) All Pawnbroker Licenses, Secondhand Article Dealer Licenses and Secondhand Jewelry Dealer Licenses are valid for one (1) year, from January 1 until December 31.

(9) REQUIREMENTS.

- (a) Identification. No pawnbroker, secondhand article dealer, or secondhand jewelry dealer may engage in a transaction of purchase, receipt, or exchange of any secondhand article from a customer without first securing adequate identification from the customer. At the time of the transaction, the pawnbroker shall require the customer to present one of the following types of current and valid identification:
 - 1. Wisconsin driver's license;
 - 2. Wisconsin identification card;
 - 3. Photo identification card or photo driver's license issued by another state, US territory or province of Canada;

4. Passport;

5. Military identification.

- (b) Transactions with Minors. No pawnbroker, secondhand article dealer, or secondhand jewelry dealer may engage in a transaction of purchase, receipt, or exchange of any secondhand article from any minor, defined as a person under the age of 18 years.
- (c) Records Required. At the time of any reportable transaction other than renewals, extensions, or redemptions, every pawnbroker, secondhand article dealer and secondhand jewelry dealer must immediately record the following information in a computerized record approved by the Baraboo Police Department:
 - 1. A complete and accurate description of each article or piece of jewelry, including, but not limited to any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an article or piece of jewelry.
 - 2. The purchase price, amount of money loaned upon, amount of money or pledged therefore.
 - 3. The maturity date of the transaction and the amount due, including monthly and annual interest rates and all fees and charges, if applicable.
 - 4. Date, time, and place the article or piece of jewelry was received by the pawnbroker, secondhand article dealer or secondhand jewelry dealer and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions.
 - 5. The full name, current residence address, current residence telephone number, date of birth, and accurate description of the person from whom the article or piece of jewelry was received, including sex, height, weight, race, color of eyes, and color of hair.
 - 6. A copy of the identification as required by section (a), above.

7. The signature of the person identified in the transaction.
 8. The pawnbroker, secondhand article dealer and secondhand jewelry dealer shall provide the original transaction identifier, the date of the current transaction, and the type of transaction for renewals, extensions, and redemptions.
 9. Every pawnbroker, secondhand article dealer and secondhand jewelry dealer shall keep a written inventory of all articles and pieces of jewelry received, with said record containing the name and address of each customer, the date, time, and place of the transaction, and a detailed description of the article or piece of jewelry that is the subject of the transaction. The customer shall sign his or her name on a declaration of ownership identified in the inventory and shall state that he or she owns the article or piece of jewelry. The pawnbroker, secondhand article dealer or secondhand jewelry dealer shall retain an original and a duplicate of each entry and declaration of ownership relating to the purchase, receipt, or exchange of any secondhand article for not less than one (1) year after the date of the transaction and shall make duplicates of the inventory and declarations of ownership available to any law enforcement officer for inspection at any reasonable time.
 10. Computerized data entries and inventories as required by this chapter shall be retained by pawnbrokers, secondhand article dealers and secondhand jewelry dealers for at least one (1) calendar year from the date of transaction.
- (d) Holding Period.
1. Any secondhand article purchased or received by a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall be kept on the premises or other place for safekeeping for not less than seven (7) calendar days after the date of purchase or receipt, unless the person known by the pawnbroker, secondhand article dealer or secondhand jewelry dealer to be the lawful owner of the secondhand article redeems it.
- (e) Pawnbroker Redemption Period.
2. During the period set forth in section 1, above, the article or jewelry shall be held separate from saleable inventory and may not be altered in any manner. The pawnbroker, secondhand article dealer or secondhand jewelry dealer shall permit any law enforcement officer to inspect the article or jewelry during this period. Within 24 hours after a request of a law enforcement officer during this period, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall make available for inspection any article or jewelry which is kept off the licensed premises for safekeeping.
 3. This section shall not apply to an article or piece of jewelry consigned to a pawnbroker, secondhand article dealer, or secondhand jewelry dealer.
- Any person pledging, pawning or depositing any article or jewelry for security with a pawnbroker must have a minimum of sixty (60) calendar days from the date of that transaction to redeem the article or jewelry before it may be forfeited and sold. During the sixty (60)-day holding period, articles and jewelry may not be removed from the licensed premises. Pawnbrokers are prohibited from redeeming any article or jewelry to anyone other than the person to whom the receipt was issued, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with the approval of the Baraboo Police Department.

Written authorization for release of property to persons other than the original pledger must be maintained along with the original transaction record in accordance with section (d), above.

(f) Police Order to Hold Property.

Whenever a law enforcement officer from any agency notifies a pawnbroker, secondhand article dealer or secondhand jewelry dealer not to sell an article or piece of jewelry, the article or piece of jewelry must not be sold or removed from the licensed premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for fifteen (15) calendar days from the date of initial notification, or until the investigative order is canceled, or until an order to confiscate is issued, pursuant to subsection a, below, whichever comes first.

1. If an article or piece of jewelry is identified as stolen or evidence in a criminal case, the law enforcement agency may physically confiscate and remove it, pursuant to a written order from the police department.
2. When an article or piece of jewelry is confiscated, the person doing so shall provide identification upon request and shall provide the pawnbroker, secondhand article dealer or secondhand jewelry dealer with the name and phone number of the confiscating officer and the case number related to the confiscation.
3. When an order to confiscate is no longer necessary, the law enforcement agency shall so notify the pawnbroker, secondhand article dealer or secondhand jewelry dealer.

(g) Daily Reports to Police.

1. Pawnbrokers, secondhand article dealers, and secondhand jewelry dealers must submit every reportable transaction to the Baraboo Police Department daily in the following manner:
2. Pawnbrokers, secondhand article dealers, and

secondhand jewelry dealers must provide to the police department all information required in section (c), above, and other required information, by transferring it from their computer to the Baraboo Police Department's approved tracking system via secure modem. All required records must be transmitted completely and accurately by noon the day following the day of the transaction in accordance with standards and procedures established by the Baraboo Police Department.

3. The pawnbroker, secondhand article dealer, and secondhand jewelry dealer must display a sign of sufficient size in a conspicuous place on the premises which informs all patrons that all transactions are reported daily to the Baraboo Police Department by a computerized monitoring system.
4. If a pawnbroker, secondhand article dealer or secondhand jewelry dealer is unable to successfully transfer the required reports by their secured modem, the pawnbroker, secondhand article dealer or secondhand jewelry dealer must provide the Baraboo Police Department with printed copies of all reportable transactions by noon the next business day. If the problem is determined to be in the pawnbroker, secondhand article dealer or secondhand jewelry dealer system and is not corrected by the close of the first business day following the failure, the pawnbroker, secondhand article dealer or secondhand jewelry dealer shall be charged a daily reporting failure fee of \$10.00 until the error is corrected, or, if the problem is determined to be outside the system,

the pawnbroker, secondhand article dealer or secondhand jewelry dealer must provide the required reports and resubmit all such transactions via modem when the error is corrected. Regardless of the cause or origin of the technical problems that prevented the upload of the reportable transactions, upon correction of the problem, the pawnbroker, secondhand article dealer or secondhand jewelry dealer shall upload every reportable transaction from every business day the problem existed. The provisions of this section notwithstanding, the Baraboo Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

5. Each transactions by a person in a single day may be reported by the pawnbroker, secondhand article dealers, or second jewelry dealers as a single transaction.
6. All incomplete forms will result in a \$7.50 penalty to be paid to the City Clerk. All penalties must be paid prior to the renewal of any license.
7. The Common Council may determine to charge a fee for billable transactions as described in section (1), above, with a list of the fees available from the City Clerk. Fees shall be billed to the license holder on a monthly basis, with payment due within thirty (30) calendar days of the date of the invoice.
8. Nothing in this section applies to the return or exchange from a customer to a pawnbroker, secondhand article dealer or secondhand jewelry dealer of any secondhand article purchased from the pawnbroker, secondhand

article dealer or secondhand jewelry dealer.

- (h) Label Required. Pawnbrokers, secondhand article dealers, or secondhand jewelry dealers must attach a label to every article or piece of jewelry at the time it is pawned, purchased, or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the licensed premises' records, the transaction date, the name of the article or piece of jewelry and the description or the model and serial number of the article or piece of jewelry as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be reused.

- (i) Current Information. A license holder must report any changes to the people listed in section 5(c), above, to the City Clerk within seven (7) calendar days of the change. If the change is the addition of a person or persons, the Baraboo Police Department will conduct an investigation into the person or persons' background following the procedure described in section 6, above. If the person or persons does not meet the qualifications to be a pawnbroker, secondhand article dealer or secondhand jewelry dealer, the City Clerk shall notify the license holder and the license holder will have thirty (30) calendar days from the date of the notice to either voluntarily surrender the license or to provide proof that the person or persons not meeting the licensing criteria are no longer employed by or in any way associated with the licensed premises.

- (10) **PROHIBITED ACTS.** In addition to the requirements contained in this chapter, the following is prohibited:

- (a). No person under the age of 18 years may pawn or sell or attempt to pawn or sell articles or pieces of jewelry to any pawnbroker, secondhand article dealer or secondhand jewelry dealer, nor may any pawnbroker, secondhand article dealer or secondhand jewelry dealer receive any articles or jewelry from a person under the age of 18.

- (b) No pawnbroker, secondhand article dealer, or secondhand jewelry dealer may receive any articles or pieces of jewelry from a person reasonably believed to be of unsound mind, known to be the subject of a guardianship, conservatorship, or receivership, or a person reasonably believed to be intoxicated.
 - (c) No pawnbroker, secondhand article dealer, or secondhand jewelry dealer may receive an article or piece of jewelry that possesses an altered or obliterated serial number or other identification number, or any article or piece of jewelry that has had its serial number removed.
 - (d) No person may pawn, pledge, sell, consign, leave, or deposit any article or piece of jewelry not their own, nor shall any person pawn, pledge, sell, consign, leave, or deposit an article or piece of jewelry of another, whether with permission or without, nor shall any person pawn, pledge, sell, consign, leave, or deposit any article or piece of jewelry in which another has a security interest with any pawnbroker.
 - (e) No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any pawnbroker, secondhand article dealer, or secondhand jewelry dealer shall give a false or fictitious name, nor give a false date of birth, nor give a false or out-of-date address of residence or telephone number, nor present a false or altered identification or the identification of another to any pawnbroker.
- (11) LICENSE DENIAL, SUSPENSION, OR REVOCATION.
- (a) A license issued hereunder may be denied, revoked, or suspended by the City Clerk upon administrative determination that the licensee has committed fraud, misrepresentation, or provided a false statement in the application for a license, or violated this chapter or §§134.71, 943.34, 948.62 or 948.63, Wis. Stats., or violated any local, state, or federal law substantially related to the businesses licensed under this chapter.
 - (b) The City Clerk may deny, suspend, or revoke any license issued under this section upon administrative determination that the applicant or any person listed in section 6(c), above, is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information.
 - (c) The City Clerk may suspend the license of any pawnbroker, secondhand article dealer, or secondhand jewelry dealer who does not pay the fees required by this section within thirty (30) days of the date of said invoice. The City Clerk may revoke the license of any pawnbroker, secondhand article dealer, or secondhand jewelry dealer who has not paid for charges assessed for reportable transactions for ninety (90) days, or has been suspended three times in any calendar year.
- (12) FEES.
- (a) The license fee under this chapter shall be as contained in the City of Baraboo Fees and Licenses Schedule.
 - (b) The billable transaction fee as contained in the City of Baraboo Fees and Licenses Schedule shall be charged for each billable transaction, and such fees shall be billed to each pawnbroker, secondhand article dealer or secondhand jewelry dealer monthly and are due and payable within thirty (30) days of the billing date. Failure to pay within that time period is a violation of this chapter.
- (13) PENALTY. Any person who is convicted of violating any of the provisions of this chapter shall forfeit not less than \$50.00 nor more than \$100.00, plus the costs of prosecution. Each day of violation shall constitute a separate offense.
- (14) APPEAL. Any party whose pawnbroker, secondhand article dealer, or secondhand jewelry dealer license has been denied, suspended, or revoked shall have the right to appeal such denial, suspension, or revocation to the Administrative Committee for a hearing. After the presentation of evidence to the Committee, a determination shall be made that the denial, suspension, or revocation shall stand or is overturned in whole or in part, and findings shall be made by the Committee with regard to that determination. The decision of the Committee shall be final.
- (15) SEVERABILITY. If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.

12.04 TOBACCO RETAILER LICENSE (2460 7/11/2017) No person shall in any manner, or upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes or tobacco products to any person not holding a license as herein provided in the City without first obtaining a license from the City Clerk. The provisions of §134.65, Wis. Stats., are hereby adopted and made a part of this section by reference.

12.05 SPECIAL EVENT LICENSE. (2206 09/13/2005; 2429 05/26/2015; 2497 08/28/2018; 2584 01/11/2022)

The City of Baraboo recognizes that special events can bring many benefits to the community. At the same time, the City must have sufficient notice prior to a special event so that the City can evaluate the potential impact the event might have on resources of City departments, City owned properties and facilities, and on the public. Because events have unique characteristics with different potential impacts on City services, the issuance of a license is considered on a case-by-case basis and in accordance with this ordinance.

(1) DEFINITIONS. As used in this ordinance, the following terms have the following meaning:

- (a) “Applicant” means the person applying for the special events license.
- (b) “City Property” includes all buildings, parks, parking lots, streets, sidewalks and other rights-of-way and any other property owned, leased, managed or controlled by the City of Baraboo.
- (c) “Extraordinary services” means reasonable and necessary services provided by the City which specifically result from the special event. Extraordinary services result in measurable financial costs which are above and beyond the normal levels of public health and safety services on a non-event day. Extraordinary services will normally be those services requiring city employees to be specifically assigned to tasks in support of the special event and/or those services resulting in overtime pay or similar costs which result from the event. Examples of extraordinary services may include police protection, traffic control, fire monitoring, parks services, and other services necessary to ensure the protection of participants and citizens, the proper functioning of City services, and the

proper administration of this ordinance. The City will make reasonable efforts to adjust the schedules of employees to minimize the requirement for overtime pay or other costs for extraordinary services where sufficient advanced notice of the event is provided.

- (d) “Multiple day event” means a special event that occurs on more than one day, where the days are consecutive or at a consistent interval), at the same start and end time and at the same location (e.g., an event occurring on a consecutive Saturday and Sunday from 9:00 am until 5:00 pm or an event occurring three Tuesdays in a row from 5:00 pm until 8:00 pm) One special event license will be issued for a multiple day event.
- (e) “Normal and ordinary use” means the way City property should normally and ordinarily be used. Whether an event is considered within the normal and ordinary use of the property is determined by the City department that maintains jurisdiction over the property.
- (f) “Public right-of-way” shall mean all highways, streets, alleys, sidewalks and public parking lots within the City of Baraboo.
- (g) “Special event” or “event” means a temporary gathering of people for a planned occurrence on City property such as, but not limited to, festivals, concerts, demonstrations, rallies, performances, parades and athletic events, which are not within the normal and ordinary use of that place or which, by the nature of the event, may have a greater impact on City services or resources than would have occurred had the event not taken place. A special event may also occur on private property if it will affect, impact or interfere with the normal and ordinary use of City property by the general public within the vicinity of the event and/or will require the use of extraordinary services. A special event may be a single day event or a multiple day event. The City Administrator or designee shall have the exclusive authority to determine whether or not a license is required for any particular event should there be a question about whether an event meets this definition. The following events are excluded from meeting the definition of being a special event:

1. Funeral processions;
2. Events organized solely by the City and where the City is the applicant;
3. Events which enter into a separate and specific agreement, which is approved by the Common Council, to hold the event pursuant to the terms of the individual agreement. The Council is authorized to modify the terms or requirements of this Ordinance within such an agreement, provided the modifications meet the spirit if not the letter of this Ordinance.

(2) LICENSE REQUIRED.

- a. License Required. No person or entity acting as an event organizer shall set up for, hold, or conduct a Special Event within the municipal boundaries of the City of Baraboo without first obtaining a Special Event license.
- b. License Submittal Date.
 1. License requests are deemed submitted to the City when the City Clerk receives the application form, application fee and proof of insurance.
 2. License requests must be submitted at least thirty (30) calendar days prior to the event for events involving the use of a public right-of-way or if the applicant intends to request a waiver of costs for extraordinary services; for events not involving a public right-of-way or a requested waiver of costs, the license request must be submitted at least fourteen (14) calendar days prior to the event.
 3. Applicants requesting the closure of any public right-of-way or a portion of it within the City of Baraboo must meet with designated City staff within seven (7) days of submitting the application, to be scheduled by City staff.
- c. Application form. License requests must be submitted on an application form supplied by the City Clerk. The form must be complete and must contain a detailed map or diagram indicating the specific location and layout of the event. The map must also include any proposed street closure of any public right-of-way and the proposed route and direction of route, including all turns and the number of traffic lanes to be used, if applicable.
- d. Application Fee. A license application fee shall be set by the Common Council and listed in the City's Official Fee Schedule. The fee is due in full for a license request to be deemed submitted to the City. The application fee is non-refundable unless the application is denied because it is submitted late. Events sponsored entirely by a registered non-profit organization or government entity are exempt from paying an application fee.
- e. Insurance. Applications must be accompanied by a certificate of insurance showing that the applicant is covered by general liability insurance by an insurance company licensed to do business in Wisconsin in the minimum amount of \$300,000 for the injury or death of one person, \$50,000 for property damage, and an aggregate of \$1,000,000 coverage for the event. Additional insurance may be required depending on the nature of the event and as determined by the City, which will be communicated to applicant by the City Clerk at least ten (10) calendar days prior to the event. If additional insurance is required, the applicant must provide the City Clerk with a certificate of insurance in the required amounts at least five (5) calendar days prior to the event. All certificates of insurance must list the City of Baraboo as an additional insured.
- f. Additional Licenses, Permits and Fees. The applicant is solely responsible for ensuring the event has all other necessary license, permits and variances prior to the event including, but not limited to, alcohol licenses, vendor permits, noise variances, etc.
- g. Applicant Requirements. Applicants must be at least 18 years of age or older. If the applicant is a corporate or government entity, the application

must be signed by an authorized agent of the entity. The applicant must agree to indemnify, defend and hold harmless the City of Baraboo as it pertains to the event.

- h. Public Right-of-Way Closing If the City grants a Special Events license that involves the closing of any public right-of-way in the City of Baraboo, the applicant must notify in writing all owners and occupants of property located on or adjacent to the public right-of-way to be closed. The notice must include a description of the event, the public right-of-way that will be closed, the dates and time of closure and any related parking restrictions. The applicant must submit a draft notice with the application and a proposed list of owners/occupants that will be provided with the notice. Upon granting of the Special Events license, the City will approve the notice of public right-of-way closure and list of those to be notified, with any revisions. The applicant shall deliver the notice to the owners/occupants within five (5) calendar days of the Special Event and provide the City with an affirmation that such delivery has been made before the event.
- i. Acceptance of Application. Applications not meeting the requirements of this ordinance shall be denied by the City Clerk.
- j. Application Review. Applications are reviewed by employees from the following City departments: Administration, Finance (City Clerk), Fire, Parks, Recreation & Forestry, Police and Public Works. Each department will recommend either approving or denying the application. The City Clerk will issue the license only upon receiving a recommendation for approval from all departments. Each department must recommend approving or denying an application based on the information relevant to that department. A department's decision to recommend approving or denying an application may be based on, but is not limited to, the following:
 - 1. Use of department resources,
 - 2. Costs to the department,

- 3. Any perceived public health or safety problems related to the department or jurisdiction covered by the department,

- 4. If the applicant has a history not complying with this ordinance, including past failures to pay the application fee or costs, and/or other applicable rules or regulations. If a recommendation for denial is made by a department, an explanation must be provided to the City Clerk who will then provide them to the applicant upon their request.

- k. Priority. All license requests are accepted first come, first served. For purposes of determining the priority of an application, any amendment, revision or resubmittal of a license application shall become the date the license request is submitted to the City Clerk.

- l. Waiver. Some or all of the license requirements may be waived in cases where the United States Secret Service or other government entity notifies the City of a proposed event in which it will be assisting with security details. It will be at the discretion of the City Administrator which requirements will be waived.

(3) SAFETY

- a. Security. All events must have at least one designated head of security who must, at minimum, be:

- 1. 18 years of age or older,
- 2. At the event for the duration of the event,
- 3. Reachable by phone at all times during the event by the City, and
- 4. Able to call 911 during the event.

- b. Additional Safety Features. The Police, Fire or Public Works Department may require the applicant to have additional safety features at an event, in which case the City Clerk will let the applicant know what additional safety features the event will need at least seven (7) calendar days prior to the event. If the applicant declines to provide the additional security

features, the application may be denied.

(4) SET-UP AND CLEAN-UP

- a. Set-Up. Set-up for an event, including, but not limited to, dropping off supplies and erecting tents, shall not take place more than four (4) hours in advance of an event unless approval for earlier set-up has been granted by the department head or designee with jurisdiction over the location of the event.
- b. Markings. No markings, including temporary markings, shall be allowed on City property for an event.
- c. Portable Toilets. It is the responsibility of the applicant to ensure a reasonably adequate number of portable toilets are available during the event.
- d. Waste and Recycling Receptacles. It is the responsibility of the applicant to ensure reasonably adequate number of waste and recycling receptacles are present during the event.
- e. Clean-Up. It is the responsibility of the applicant to ensure the location of the event is left in the same condition it was in prior to the event. All clean-up efforts must be completed within four (4) hours after the conclusion of the event unless approval for additional clean-up time has been granted in writing by the Department with jurisdiction over the location of the event. During and following a special event, the applicant of the event shall be responsible for the cleanup of all streets, sidewalks and alleys within the area of the special event.
- f. ADA Compliance. It is the responsibility of the applicant to ensure the event is ADA compliant to the extent legally required, and that all associated rules, ordinances, statutes and codes are complied with.

(5) COSTS FOR EXTRAORDINARY SERVICES.

- a. City Costs. If an event will require extra ordinary services, the City shall require that the applicant pay for the services if the costs to the City to provide the services exceeds \$500.00. The City will make a reasonable effort to notify the applicant prior to the event if

extraordinary services totaling over \$500 will be provided by the City. The City may request a surety bond from the applicant for the amount of the anticipated costs. Failure of the applicant to provide the City with a surety bond upon request may result in the application being denied.

1. If the estimated costs for the event exceed \$500.00, the license for the event shall not be issued unless a bond to secure the payment of the estimated costs is filed with the City Clerk.
 2. If the total costs for extraordinary services exceeds \$500.00, an itemized statement of the costs shall be provided to the applicant within thirty (30) calendar days after the event, who shall pay such costs within thirty (30) calendar days.
 3. Within the thirty (30) calendar days of receipt of the statement of costs, the applicant may appeal the statement of costs to the Finance Committee, who shall determine the actual costs relating to the event.
- b. Waiver of Costs. Costs may only be waived by the Finance Committee, who shall hear an applicant's request for waiver at its next regular meeting. If the Finance Committee denies a request for the waiver of costs, that decision may be appealed to and heard by the Common Council with the recommendation of the Finance Committee being provided to the Council. A waiver of the payment requirement for all or part of the costs for extraordinary services shall be based upon a consideration of the following:
 1. Whether the applicant is a tax exempt organization.
 2. The total costs for the event.
 3. Whether the event was sponsored by a unit of government.
 4. Whether the event is protected speech under the First Amendment to the US Constitution.

- (6) **RESTRICTING USE OF PUBLIC RIGHT-OF-WAY.** To encourage the integrity, comprehensiveness and success of a special event, the Public Safety Committee may suspend otherwise permissible uses of any public right-of-way, such as city street, alley, or sidewalk. Upon receipt of an application that contains a request to suspend otherwise permissible uses of a public right-of-way, the City Clerk shall immediately forward copies to the members of the Public Safety Committee, which shall convene to consider the application and give notice of the meeting to the applicant. Before granting an application for license that includes restricting permissible uses of a public right-of-way, the Public Safety Committee shall consider the recommendations made by the Police Chief, Fire Chief, Director of the City's Public Works Department, and Street Superintendent and shall consider the risks to public safety based upon the following:
- a. The location of the request for the restriction of permissible uses of the public right-of-way.
 - b. The duration of the request.
 - c. The time of day of the request.
 - d. The subject matter, ideology, opinion or perspective of the applicant shall not be considered in determining whether to grant a restriction of permissible uses of the public ways.
- (7) **EMERGENCY ACCESS.** All events shall be conducted and maintained in a manner that will allow an emergency vehicle an unobstructed access lane at least 18 feet wide and continuous over the entire length of any street within the area where the event takes place.
- (8) **NO UNAUTHORIZED VENDING.** During an event there shall be no vending in the area of the special event except vending permitted by the applicant. The applicant shall be responsible for ensuring that all authorized vendors are easily identifiable as such.
- (9) **DISCRIMINATION PROHIBITED.** No applicant shall discriminate against any vendor, customer, event participant or other person by reason of race, color, creed, handicap, age, sex, religion, national origin, ancestry, marital status, or other form of discrimination prohibited by the laws of the State of Wisconsin or United State of America.
- (10) **TERMINATION OF LICENSE.** A special event license may be terminated by City

before or during the event if the health, safety and welfare of the general public appears to be endangered by activities generated as a result of the event or if the event is in violation of this section or of any of the conditions of the permit or regulations adopted by the Common Council resolution. The City Administrator, Fire Chief, Police Chief or Director of the City's Public Works Department shall have the authority to terminate the license.

- (11) **APPEALS.** If an application is denied, the applicant may request the application be submitted to Common Council by way of the Public Safety Committee for review and a final determination of whether to grant the license. In deciding the appeal, the Public Safety Committee and Common Council may consider the following:
- a. If the application was not fully completed and/or failed to include necessary attachments and/or contained a material falsehood or misrepresentation;
 - b. If the applicant asserts that he/she cannot or will not pay the application fee and/or that he/she cannot or will not pay the costs for extraordinary services and the Common Council determines that the fee and/or costs are not waived;
 - c. If the applicant is not legally competent to sign the application or to be held responsible for his/her actions;
 - d. If the applicant has, on prior occasions, been required to pay for extraordinary services or damage to City property and has not paid in full for such services or damage;
 - e. If the event would conflict with previously planned events and programs or the unavailability of sufficient City resources for the proposed event;
 - f. If the event would present a grave or unreasonable danger to the health, safety or welfare of the persons expected to participate in the event, the area in which the event will occur, the community as a whole, or City property and resources required to be involved with the proposed event;
 - g. If the number of persons expected to participate in the event would result in a concentration of persons, vehicles, or things which cannot be supported at the requested time or location due to a lack of sufficient open area,

- streets, offsite parking, or traffic controls.
- h. If activities reasonably expected to occur at the intended event are prohibited by law.

(12) COMPLIANCE. The applicant is responsible for ensuring that the event complies with this ordinance and all applicable laws and regulations including, but not limited to, statutes, ordinances, traffic rules, park rules, health laws, fire codes, and liquor licensing regulations. Any person who violates any provision of this ordinance shall, upon conviction, be subject to a penalty as provided for in §25.04 of this Code, in addition to being subject to any other applicable civil or criminal penalties.

12.05A LATE NIGHT MOBILE FOOD VENDING PERMIT (2409, 02/25/14)

(1) PERMIT REQUIRED. Any person operating, conducting or managing within the City a mobile food vending stand shall obtain a permit. A permit shall not be required for any private party, picnic, event or gathering where the general public is not invited, nor when such mobile food vending occurs entirely on private property.

(2) DEFINITIONS.

(a) A “Mobile Food Vendor” is an individual who offers for sale only personally prepared food for which that individual is regularly involved in all phases of both the production and the sale of the food. In addition, a food vendor may be a corporation, cooperative or partnership; however, the application and permit shall designate a primary individual who is all regularly involved in all phases of the production process and who are responsible for the vending operation.

(b) “Personally Prepared Food.” Personally prepared food is food or beverage produced by the vendor from raw or basic ingredients, changing the nature, form, shape or function. All food sold shall comply with State Health Regulations. In addition, the category ‘personally prepared food’ shall include the following:

1. Fruit sold by the piece or in individual-sized portions.

2. Condiments and other incidental ingredients given free with personally prepared food.
3. Coffee, tea, milk, and commercially produced beverages in containers not made of glass.
4. Hotdogs, bratwurst or other sausages, and commercially produced buns.
5. Ice cream bars and other pre-portioned frozen treats; soft serve or hard scooped ice cream served by the cone or dish.

(3) AREAS OF OPERATION. Late Night Mobile Food Vendor permittees may operate only within the area bounded by Broadway Street on the west, 5th Street/Avenue on the north, Ash Street on the east, and 2nd Street/Avenue on the south. If the permittee utilizes a vehicle or trailer from a street, operations may only occur in an area which is marked for parallel parking of vehicles.

(4) HOURS OF OPERATION. A Late Night Mobile Food Vendor permittee may only operate between the hours of 9:00 PM and 3:00 AM. Vehicles, carts, trailers and other equipment may only be set up at a place of operation after 9:00 PM, and must be removed by 3:00 AM.

(5) EXCLUSIONS. A Late Night Mobile Food Vendor permit shall not be used during times when a Special Event Permit (§12.05, Ordinances) is in effect in the Areas of Operation and during Hours of Operation. Excavation and Openings Permits (§8.03, Ordinances) and Encroachments Permits (§8.04(2), Ordinances) shall supersede any permit issued pursuant to this section.

(6) RIGHT-OF-WAY. No permit shall be issued for use of public right-of-way until satisfactory evidence is presented that the permittee has obtained general liability insurance coverage with an insurance company permitted by the State of Wisconsin naming the City as an additional insured in amounts not less than \$1,000,000 for bodily and personal injury sustained by any one occurrence and \$100,000 for property damage, and said insurance shall be primary insurance coverage for any damages to persons or property caused by

reason of any accident or occurrence to any person or property arising from or growing out of the use of the encroachment permit. Such insurance coverage shall be maintained for so long as the permit is in effect.

- (7) **GARBAGE CAN.** Each permittee shall furnish at its location of operation a garbage can not less than 30 gallons in size. Garbage shall not be allowed to accumulate as litter, and full garbage cans shall be emptied as needed throughout the hours of operation. No garbage shall be deposited in municipal waste containers by a permittee. Prior to leaving a site after operation, a permittee shall inspect and pick up all garbage, litter, refuse, and food within 50 feet.

- (8) **RESTRICTIONS AND LIMITATIONS.** The exercise of a permit pursuant to this section shall be subject to the following restrictions and limitations:

- (a) Noise levels emanating from the vending site shall be kept to a minimum, and shall be reasonable so as not to disturb the peace and quiet of those in the vicinity, including but not limited to residents, merchants, and customers. No sound amplification shall be allowed. Vendors utilizing an enclosed vending cart may use amplification inside an enclosed vending cart only, and any music or other audio shall be kept to a volume such that it cannot be heard outside of the cart beyond the first customer in line at the window or service area.
- (b) All vending equipment, including carts, tables, apparatus and merchandise shall be removed from the streets, sidewalks, terrace area or other vending location during times when vending is prohibited.
- (c) All equipment used at the vending site shall be in a clean, sanitary, hazard-free condition and maintained in a presentable appearance and in good repair, without noticeable holes or other structural defects. Visible exterior surfaces of all equipment shall be maintained so as to prevent chipping, cracking or other deterioration of the paint or exterior surface.

- (d) A vendor shall be present within the vending site at all times during which items are displayed or sold, except that a vendor may leave his or her vending site unattended during lawful vending hours for a maximum of ten (10) minutes.
- (e) Generators must operate at 60 decibels or lower when measured from the building front nearest to the permittee.
- (f) No vendor shall drive or permit another to drive a motor vehicle upon any sidewalk area for the purpose of depositing vending carts or other equipment thereon. This prohibition does not apply to permanent or temporarily established driveways.
- (g) No service from a truck or trailer shall be allowed onto the street side of the vehicle.
- (h) A food cart located upon a sidewalk shall not be placed less than 5 feet from a building. A minimum 5 foot path for pedestrian traffic shall be maintained at all times, and the vendor shall manage its queue so that pedestrian traffic on the sidewalk is not impeded.
- (i) Seating for customers is not allowed.
- (j) No moving or flashing lights are allowed.
- (k) No alcohol shall be served.

- (9) **FEE.** The fee for a Late Night Mobile Food Vending Permit shall be as set forth in the Official Fee Schedule.

12.06 AUTOMOBILE RACING LICENSE.

- (1) **LICENSE REQUIRED.** No person shall sponsor or conduct an automobile race in the City without obtaining a license.
- (2) **APPLICATION.** Application for a license shall be made on a form provided by the City Clerk and shall be accompanied by a certificate of insurance showing that the applicant is covered by liability insurance by an insurance company licensed to do business in Wisconsin in the amount of \$300,000 for the injury or death of one person, \$1,000,000 for any one accident and \$50,000 for property damage.
- (3) **FEE.** The fee shall be as set forth in the City's Official Fee Schedule.

- (4) GRANT OR DENIAL OF LICENSE BY COUNCIL. The application for a license shall be referred to the Council and, upon due deliberation, the Council shall grant or deny the license.

12.07 REGULATION AND LICENSING OF DIRECT SELLERS, TRANSIENT MERCHANTS AND SOLICITORS.

- (1) DIRECT SALES AND SOLICITATIONS: The following rules shall apply to direct sales and solicitations within the City of Baraboo.
- (2) DEFINITIONS.
- (a) “Direct Seller.” Any individual who, for himself or for a partnership, association or corporation, sells goods or services or takes sales orders for the later delivery of goods or services at any location other than the permanent business place or residence of said individual, partnership, association or corporation and shall include, but not be limited to, peddlers, canvassers and transient merchants. The sale of goods and services includes donations requested or required by the direct seller for the retention of goods or services by a donor or prospective customer.
- (b) “Transient Merchant.” Any person, whether as owner, agent, consignee or employee, who engages in a temporary business of selling and delivering goods, wares and merchandise within said City and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad box, car or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the City for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction, provided that such definition shall not be construed to include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this section merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such

transient business in connection with, as a part of, or in the name of, any local dealer, trader or auctioneer.

- (c) “Permanent Merchant.” A direct seller or one representing a merchant who, for at least one year prior to the submission of an application pursuant to this section, has continuously operated an established place of business in this City or has continuously resided in this City and now does business from his residence.
- (d) “Goods.” Personal property of any kind and includes goods provided incidental to services offered or sold.
- (e) “Solicitor.” Any individual who, for himself or for any other person, organization, society, association or corporation, personally solicits money, property or financial assistance of any kind from persons other than members of such organization, society, association or corporation.
- (f) “Charitable Organization.” Any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation for which there is provided proof of tax exempt status pursuant to §501(c)(3) or (4) of the United States Internal Revenue Code.

(3) EXEMPTIONS.

- (a) The following shall be exempt from all provisions of this section:
1. Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
 2. Any person selling goods at wholesale to dealers in such goods.
 3. Any farmer or truck gardener selling agricultural products of the farm or garden occupied or cultivated by such person.
 4. Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within the County and who delivers such goods in his regular course of business.
 5. Any person who has an established place of business where the goods being sold are offered for

sale on a regular basis and in which the buyer has initiated contact with and specifically requested a home visit by said person.

6. Any person who has had, or represents a company which has had, a prior business transaction such as a prior sale or credit arrangement with a prospective customer.

7. Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.

- (b) Any person required to obtain a license as a pawnbroker, secondhand article dealer and/or secondhand jewelry dealer pursuant to §12.03 of this Code.

(4) REGULATION OF DIRECT SELLERS AND SOLICITORS – PROHIBITED PRACTICES.

- (a) A direct seller or solicitor shall be prohibited from:

1. Calling at any dwelling or other place between the hours of 9PM and 9AM, except by appointment.
2. Calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors," or words of similar meaning.
3. Calling at the rear door of any dwelling place.
4. Remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

- (b) A direct seller or solicitor shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods or services offered for sale, the purpose of his visit, his identity or the identity of the organization he represents.

- (c) No direct seller or solicitor shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales or solicitations are made from vehicles, all traffic and parking regulations shall be observed. No

direct seller or solicitor shall have any exclusive right to any location in the public streets. No direct seller or solicitor shall sell or solicit in any congested area or where the public will be impeded or inconvenienced. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

- (d) No direct seller or solicitor shall make any loud noises or use any sound amplifying device to attract customers or donors if the noise produced is capable of being plainly heard outside a three hundred foot radius of the source.

- (e) No direct seller or solicitor shall allow rubbish or litter to accumulate in or around the area in which he is conducting business or making solicitations.

(5) REGULATION OF FARMERS AND TRUCK GARDENERS.

- (a) Farmers' Market Established. The West side of Oak Street between 3rd Avenue and 4th Avenue and the first six parking spaces on the south side of 4th Avenue, lying immediately west of Oak Street, are hereby designated for use as a Farmers' Market between April 15th and October 31st of each year. Vendors shall parallel park motor vehicles along the south side of 4th Avenue designated for use as a Farmers' Market.

- (b) Business Improvement District (BID) Board to Administer Farmers' Market. The BID Board is authorized to organize and operate the Farmers' Market. The BID Board may establish the hours of operation and the days and dates of operation. In order to offset the cost of administering the Farmers' Market, the BID Board may charge permit fees to any farmer who vends or sells at the Farmers' Market, provided that any products sold at the Farmers' Market shall be products of the farm or garden occupied and cultivated by the vending farmer. If a permit fee is charged, the fee shall be as set forth in the City's Official Fee Schedule per parking stall, per day.

- (c) Generally. Farmers and truck gardeners selling their own produce shall remove their sale facility and produce at the end of each day's activities.

- (d) Denial of Permit. Any person denied a permit by the BID Board may appeal such denial to the Baraboo Common Council and the decision of the Council shall be final.

12.08 HUNTING REGULATIONS AND PERMIT. (2295, 11/11/2008; 2412, 03/25/2014; 2434, 09/22/2015)

- (1) Hunting with a firearm within the City of Baraboo shall be limited to parcels that have been approved for hunting by the Hunting Review Committee, consisting of the Chief of Police, Loss Prevention/Safety Coordinator, and the City Administrator or his designee, based upon an application that has been filed with the City Clerk by the parcel owner. No permit shall be required for bow or crossbow hunting provided that the restrictions of §9.03, Ordinances, and State law are complied with. The Committee shall approve or deny any parcel submitted for hunting approval, and may place restrictions upon hunting at the parcel, including but not limited to the type (shotgun, rifle) or caliber of weapon (.22 cal, 410 gauge, etc.) used for hunting. In determining whether to allow a parcel of land to be enrolled for hunting, and the restrictions to be placed upon the parcel, if any, the Chief of Police shall consider the following factors:
 - a. Hunting shall only be approved for parcels zoned Agricultural Transitional (A-1)-~~or~~ Agricultural Holding (A-2), or were acquired using DNR Stewardship funds and as required by §23.0916, Wisc. Stats.
 - b. The proximity of residential development, highways, parks, and other locations where people may congregate to the parcel;
 - c. The general topography of the parcel;
 - d. The size of the parcel; and
 - e. Such other factors as may be present for any particular parcel.
- (2) A hunting permit issued by the City Clerk shall be valid only for the person to whom it is issued and for the specific parcel(s) as specified thereon. The City Clerk shall issue a permit for hunting in the City of Baraboo when the following conditions are met:
 - a. The applicant possesses a valid hunting license from the Wisconsin Department of Natural Resources and provides proof thereof;

- b. The applicant provides a statement from the owner of the parcel granting permission for the hunting activity upon the parcel the applicant intends to hunt; and
- c. The parcel intended for hunting has been approved by the Chief of Police and is registered for hunting with the City Clerk.
- d. The hunting is conducted in accordance with all DNR rules as well as any restriction placed upon a parcel by the Chief of Police.

- (3) “Parcel” when used in this section shall mean a whole “tax parcel,” namely a parcel that is particularly described by a single tax parcel number.
- (4) The City Clerk shall maintain a map showing parcels enrolled for hunting, including any restrictions placed by the Chief of Police upon the parcels.
- (5) A Permit issued pursuant to this section shall be valid for the calendar year of issue.
- (6) By signing a statement granting permission for a parcel to be hunted upon, the owner of such parcel consents to the City’s agents walking and viewing the parcel. No parcel will be approved for hunting unless the City’s agent has personally viewed the parcel for which hunting is requested.

12.09 RECYCLING AND BASE METAL DEALERS LICENSE.

- (1) **LICENSE REQUIRED.** No person shall engage in the business of buying, selling, gathering, delivering or storing old iron, brass, copper or other base metals, paper, rags or glass, any recyclable material unless no value is given therefore and all articles and things discarded as manufactured articles commonly referred to as "junk", without first obtaining a license from the Council. This license only pertains to the operation of collecting, disposing of, and temporarily storing recycling materials and base metals. A license issued pursuant to this section does not authorize or guarantee operation of a permanent business location in any particular zoning district, and the requirements of such zoning districts, and the conditional use permit process if applicable, must still be met.
- (2) **EXCEPTION.** No license shall be required for the storage of wrecked motor vehicles stored within service garages and filling stations or on any service garage or filling station site as otherwise allowed by ordinance

or zoning.

- (3) **APPLICATIONS.** Applications for such license shall be made on forms supplied by the City Clerk and filed with the Clerk and shall be accompanied by the license fee. The City Clerk is authorized to issue a license issued pursuant to this section.
- (4) **LICENSE FEE.** The license fee shall be as set forth in the City's Official Fee Schedule. The license year shall commence on January 1 of each year.
- (5) **RESTRICTIONS APPLICABLE TO JUNK DEALERS.**
 - (a) No junk shall be displayed or stored outside the fenced area of the premises.
 - (b) No licensee shall conduct his business in such manner as to disturb unduly the peace and quiet of the neighborhood. The premises shall at all times be kept in a clean and wholesome condition and in full compliance with this section.
 - (c) Effective means for the elimination of the rodents and vermin commonly infesting junk yards shall be administered by all licensees hereunder.
 - (d) Every junk dealer shall keep a record of all copper, brass, guns, watches and other valuable materials purchased with the name and address of the person from whom purchased, the kind and quantity purchased, the serial number of the item purchased, and the date of the transaction. Such record shall be entered in a book that shall be open to inspection by police officers at any time.
 - (e) No junk shall be purchased from any person under 16 years of age without the written consent of the parent or guardian of such person.
 - (f) Mobile collection operations shall only be conducted in the Highway Oriented Business zoning district (B-3), and Industrial zoning districts.

12.10 GARAGE , YARD AND RUMMAGE SALES REGULATED.

- (1) **LICENSE REQUIRED.** No person shall conduct a garage, yard or rummage sale within the City without having obtained a license from the City Clerk, except as provided in sub. (2) below. The license shall be obtained at least one working day before the sale and shall be prominently displayed during the sale. Before issuing

the license, the Clerk shall refer the application to the Building Inspector for verification as to whether or not such sale at the proposed location is compatible with Ch. 17 of this Code.

- (2) **EXCEPTIONS TO LICENSE REQUIREMENTS.** No person shall be required to obtain a license if:
 - (a) The sale is conducted in a business district and is a permitted use in such district.
 - (b) The person conducts, on his own residential premises, no more than 3 sales in any one calendar year. Each sale may be held for no more than three consecutive days and shall not be conducted between the hours of 7:00 P.M. and 7:00 A.M.
 - (c) The sale is conducted by religious, educational, charitable or civic organizations on premises located in a residential district no more than three times in any calendar year. Each such sale may be conducted for not more than three consecutive days and shall not be conducted between the hours of 7:00 P.M. and 7:00 A.M.
- (3) **OWNERSHIP OF MERCHANDISE.** All goods for sale at a garage, yard or rummage sale shall be house-hold goods or personal possessions from the residence where the sale is being held or, in the case of a group sale, from the residences of the participating households. In no case shall any sales become outlets for whole-sale or retail commercial sales.
- (4) **ADVERTISING SIGNS REGULATED.** Signs advertising garage, yard or rummage sales shall be subject to the following:
 - (a) Such signs may be free standing and shall not exceed 2 square feet in size.
 - (b) Such signs may be located on tree banks if:
 1. The sign does not impede or obstruct pedestrian or vehicular traffic, and
 2. The explicit permission of the occupant of the property that adjoins the tree bank is obtained.
 - (c) Such signs shall not be located on utility poles, signposts, traffic control devices, public trees or shrubs.
 - (d) No more than three signs may be used for any sale and no more than one sign per yard shall be permitted, except that two signs shall be permitted on corner lots, one facing each street.

- (e) Such signs may be displayed only between 7:00 A.M. and 7:00 P.M. on the date of sale and shall be promptly removed by the owner of the property where the sale was held.
- (5) LICENSE FEE. The license fee shall be as set forth in the City's Official Fee Schedule.
- (6) LENGTH OF SALE. Under no circumstances shall a garage, yard or rummage sale be held for more than three consecutive days or between the hours of 7:00 P.M. and 7:00 A.M.

12.11 **TAXICABS.**

- (1) DEFINITION. The term "taxicab," as used in this section, shall include all vehicles carrying passengers for hire for which public patronage is solicited, excepting vehicles which operate on established routes and are regulated by the Public Service Commission of Wisconsin.
- (2) LICENSE REQUIRED. No person shall operate a taxicab within the City without a license obtained hereunder.
- (3) APPLICATION. Application for a license hereunder shall be made to the City Clerk and shall be referred to the Council.
- (4) LICENSE FEE AND TERM. The license fee for a taxicab license shall be as set forth in the City's Official Fee Schedule. The license term shall commence on January 1st and end on December 31st of each year.
- (5) COUNCIL APPROVAL REQUIRED. Upon reviewing the application and after considering the adequacy of existing taxicab service and the need for any additional service within the City, the Council shall grant or deny the license.
- (6) APPROVAL OF FARES. The owner or driver of any taxicab shall not charge any passenger a higher or lower rate of fare than those filed with and approved by the Council for transporting such passenger from any point within the City to any other point within the City.
- (7) INSPECTION OF VEHICLES. The brakes, horn, lights, steering system, exhaust system and tires of every taxicab shall be examined and tested as to sufficiency at least once every 6 months by a reputable garage keeper doing business in the City who shall furnish a certificate as to the examination of the vehicle and that said components are in

good working order, which certificate shall be filed with the Chief of Police.

- (8) INSURANCE. Before any license is issued, the applicant for a license hereunder shall deposit with his application a certificate of insurance coverage showing that each vehicle to be licensed is covered by public liability insurance by an insurance company licensed to do business in Wisconsin in the amount of \$500,000 for injury or death to any one person in an accident involving such vehicle, \$500,000 for any one accident and \$100,000 property damage insurance. Any insurance policy hereunder shall contain a provision that the same shall not be cancelled before expiration of its term except upon 20 days written notice to the City. Cancellation or termination of such insurance shall automatically terminate all licenses issued hereunder unless another certificate of insurance shall be substituted.
- (9) LICENSE ISSUANCE. Upon the granting of a license hereunder and upon compliance with the provisions of this section by the applicant, the City Clerk shall issue to the licensee a license which shall be displayed prominently in the taxicab for which it has been issued.
- (10) LICENSES NOT TRANSFERABLE. No license issued hereunder shall be transferable from one licensee to another. Licenses may be transferred from one vehicle to another upon submitting to the Clerk proof of insurance and a certificate of inspection.
- (11) NAME ON CABS. The business name of the owner or operator of the taxicab shall be printed on both sides and rear of each taxicab in letters at least 1½ inches in height in contrasting color at a point not lower than ½ the height of the taxicab.
- (12) FARES TO BE POSTED IN TAXICAB. Each taxicab shall have a card printed in plain legible figures with the fares charged and posted in a conspicuous place inside the taxicab in plain sight of passengers.
- (13) TAXI DRIVER REQUIREMENTS. No person shall operate a taxicab except the owner or his employee.
- (14) SUSPENSION AND REVOCATION. Licenses granted under this section may be suspended or revoked at any time by the Council for any violation of the provisions of this section and also if the vehicle for which the license was issued is not of good appearance, clean and safe, or for conduct by the licensee

or any person driving a vehicle under such license which is prejudicial to the public safety, welfare or good order of the City. A license suspended or revoked because the vehicle is not of good appearance, clean and safe shall not be

reissued until the vehicle shall be put in good condition for use by the public to the satisfaction of the Council. When a taxicab license is revoked or suspended, as herein provided, the Clerk shall immediately notify the owner to cease operation of the vehicle as a taxicab for which the license has been revoked.

12.12 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS. (1747 07/05/94)

- (1) STATE STATUTES ADOPTED BY REFERENCE. The provisions of §66.0435, Wis. Stats., are hereby adopted by reference. Comm. Ch. 27, Adm. Ch. 65, ATCP Ch. 125, as now existing or as hereafter amended, is hereby adopted by reference except that such regulations shall not be deemed to modify or amend any requirement of this section or this Code.
- (2) DEFINITIONS. For the purposes of this section:
 - (a) "Manufactured Home (Type 1)." See Ch. 17 of this Code.
 - (b) "Mobile Home." A transportable, factory built home, designed to be used as a year around residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. A mobile home may also be a unit which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used.
 - (c) "M.H." These initials shall stand for and mean "Manufactured Home (Type 1)."
- (3) MANUFACTURED HOME DIFFERENT FROM MOBILE HOME. It is the intent of this section to recognize an M.H. as distinct and different from units designated as mobile homes and to prohibit homes not meeting the requirements of a M.H. from being placed in a M.H. park in the City.

- (4) PARKING OUTSIDE LICENSED MANUFACTURED HOME PARKS. No person shall park, locate or place any M.H. outside of a licensed M.H. park in the City, except unoccupied M.H.s may be parked on the lawfully situated premises of a licensed M.H. dealer for the purposes of sale display, or the lawfully situated premises of a vehicle service business for purposes of servicing or making necessary repairs. This subsection is not intended to restrict the location of one or two family manufactured homes (Type 1) which meet the definition of a "Dwelling" as defined in Ch. 17 of this Code and which further complies with the One and Two Family Uniform Dwelling Code or the Manufactured Building Code set forth in Ch. 14 of this Code and the requirements of Ch. 17 of this Code.
- (5) MONTHLY PARKING PERMIT FEES. There is imposed on each nonexempt M.H. or Mobile Home located in the City, a parking permit fee, such amount to be determined in accordance with §66.0435, Wis. Stats. The fees shall be paid to the City Treasurer on or before the 10th day of the month following the month for which they are due. It shall be the responsibility of the licensee of a M.H. park to collect such fees from each nonexempt M.H. or Mobile Home therein and to remit such fees to the Treasurer. The Licensee shall be liable to the City for any default in payment of the monthly parking permit fee by any M.H. or Mobile Home owner and each Licensee shall guaranty payment of all monthly parking permit fees for his/her M.H. Park. Occupants of nonexempt, non-conforming M.H. or a Mobile Home located outside of a M.H. park shall remit monthly parking permit fees directly to the Clerk.
- (6) PERMIT APPLICATION REQUIREMENTS.
 - (a) Permit Required. No person shall construct, alter, modify or extend any M.H. park within the limits of the City without first securing a M.H. park permit from the City. Such permits shall be issued by the City Clerk upon approval by the Common Council after considering the report and recommendation of the Plan Commission.
 - (b) Inspection. Applications for M.H. park permits shall be filed with the City Clerk with sufficient copies for the Clerk to forward one (1) to each of the following: officials: City Administrator, City Engineer, Utility Superintendent,

Street Superintendent, Building Inspector, and Fire Chief, who shall, within sixty (60) days, investigate and review said application to determine whether the applicant, the premises on which said park will be located and the proposed design and specifications thereof and all buildings proposed to be constructed thereon will comply with the applicable regulations, ordinances and laws of the State and City and report their findings in writing to the Plan Commission and Common Council. Such reports shall be considered by the Plan Commission and Common Council before any permit is issued hereunder. Failure of any officer or body to report within the allotted time shall be deemed a favorable recommendation. The Plan Commission shall make a recommendation and report to the Council on all such permits. The City Clerk shall also forward a copy of the application to the City Administrator and City Engineer. (2033 11/14/2000)

- (c) Permit Fee. Applications for an M.H.'s park permit shall be accompanied by a fee as set forth in the City's Official Fee Schedule to cover the cost of investigation and processing, plus regular building permit fees for all buildings or structures to be erected within the proposed park.
- (d) Application Forms. Applications shall be made on forms furnished by the City Clerk and shall include the following information:
 - 1. Name and address of applicant(s) and owner(s) of proposed park site. If fee simple title to the property is vested in any person other than the applicant, the nature of the applicant's title shall be stated on the application form, and the City shall be provided with written authorization signed by the property owner stating that the applicant is authorized to construct and maintain an M.H. park on the premises and to apply for an M.H. park permit.
 - 2. Location and legal description of the proposed park, addition, modification or extension.
 - 3. A complete plot plan showing compliance with all applicable provisions of this

section, specifically subsections (7) and (9).

- 4. Completed preliminary engineering plans and specifications, including a scale drawing of the proposed park showing, but not limited to, the following:
 - a. Plans and specifications for all utilities, including: sewerage connection and disposal, storm water drainage, water and electrical distribution and supply, refuse storage and collection, lighting, telephone and cable communications and television antenna systems.
 - b. Location and width of roadways and walkways, buffer strips, parking areas, recreational and other common areas.
 - c. The location of M.H. plat forms with each M.H. space, including a detailed sketch of at least one (1) typical M.H. space and stand therein.
 - d. Landscape plan showing all plantings, signs and fences.
 - e. Plans, specifications and location of all park buildings and structures.
 - f. Satisfaction of all zoning district requirements. See Ch 17 of this Code.
 - g. Conditional use requirements. See Ch. 17 of this Code.
- 5. Written statements describing proposed park operations, management and maintenance, including proposed fees and charges and other requirements to be

imposed on park occupants
by the park operator.

- (e) Final Plans. Final engineering plans and specifications showing compliance with the provisions of this Section, the zoning regulations and any modifications or conditions imposed by the Plan Commission and/or the Council. Such final plans shall be submitted to the City Clerk and checked by the proper municipal officials for compliance before the park is approved.

(7) **SITE PLANNING FOR MOBILE HOME PARKS.** The following guidelines, standards and requirements shall apply in site planning for M.H. parks:

- (a) Street Layout. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Merging and turnout lanes and/or traffic dividers shall be required where existing or anticipated heavy flows indicate need. In general, minor streets shall not be connected with streets outside the district in such a way as to encourage the use of such minor streets by substantial amounts of through traffic. No lot within the park shall have direct vehicular access to a street bordering the development.
- (b) Pedestrians and Cyclists. Access for pedestrians and cyclists entering or leaving the park shall be by safe and convenient routes. Such ways need not be adjacent to or limited to the vicinity of vehicular access points. Where there are crossings of such ways and vehicular routes at edges of planned developments, such crossings shall be safety located, marked and controlled and where such ways are exposed to substantial vehicular traffic at the edges of a park, safeguards may be required to prevent crossings except at designated points. Bicycle paths, if provided, shall be so related to the pedestrian way system that street crossings are combined.
- (c) Intersections. At intersections of any streets, public or private, the provisions of Ch. 8 regulating obstruction of view shall apply and is hereby adopted by reference. Where there is a pedestrian or bicycle access from within the park to a street at its edges by paths or across yards or other open space without a barrier

to prevent access to the street, no material impediment to visibility more than two and five-tenths (2.5) feet above ground level shall be created or maintained within twenty-five (25) feet of said street unless at least twenty-five (25) feet from said access measured at right angles to the path.

- (d) General Layout of Park. The site plan shall provide for safe, efficient, convenient and harmonious groupings of structures, uses, recreational areas, facilities, streets, parking and for appropriate relation of space inside and outside buildings to intended uses and structural features. In particular:
 - 1. Streets, drives and parking and service areas shall provide safe and convenient access to M.H.s and for service and emergency vehicles, but streets shall not be so laid out as to encourage outside traffic to traverse the community, nor occupy more land than is required to provide access as indicated, nor create unnecessary fragmentation of the park into small blocks. In general, block size shall be the maximum consistent with use, the shape of the site, and the convenience and safety of the occupants. If the park has only one point of ingress or egress to the park for outside traffic, then an emergency entrance and exit shall also be provided.
 - 2. Vehicular access to streets from off-street parking areas may be direct from units if the street or portion of the street serves fifty (50) units or less. Determination of units served shall be based on normal routes anticipated for traffic. Along streets or portions of streets serving more than fifty (50) units, or constituting major routes to or around central facilities, access from parking and service areas shall be so combined, limited, located, designed and controlled as to channel traffic conveniently, safely and in a manner that minimizes marginal traffic friction, and direct vehicular access from individual dwellings shall generally be prohibited.

3. Walkways shall form a logical, safe and convenient system for pedestrian access to all dwellings, recreational areas, project facilities and principal off-street pedestrian destinations. Maximum walking distance in the open between each M.H. and related parking spaces, delivery areas and trash and garbage storage areas intended for use of occupants shall not exceed one hundred (100) feet.
4. Walkways to be used by substantial numbers of children as play areas or routes to school, bus stops, recreational areas, or other destinations shall be so located and safeguarded as to minimize contacts with normal automotive traffic. If an internal walkway system is provided, away from streets, bicycle paths may be incorporated in the walkway system. Street crossings shall be held to a minimum on such walkways and shall be located and designated to provide safety and shall be appropriately marked and otherwise safeguarded. Ways for pedestrians and cyclists, appropriately located, designed, and constructed may be combined with other easements and used by emergency, maintenance or service vehicle but shall not be used by other automotive traffic.

- (e) Dedication and Reservation of Lands. The dedication and reservation of land for parks, recreation areas, and other public purposes, and the payment of the park fee in lieu of dedication required and regulated by Subch. VI, §17.83 of the Zoning Code, shall apply to a manufactured home park subject to this section. (2144 03/09/04)

(8) LICENSING OF M.H. PARKS.

- (a) Park License Required. No person shall establish or operate within the City a M.H. park or Mobile Home Park without having first secured a license therefore from the City Clerk. Park licenses shall be issued as of January 1 for a calendar year and shall expire on December 31st next

succeeding the date of issue. Licenses may be issued after January 1st of any year but no reduction of the license fee shall be made for partial year operation. The fee for a park license shall be: \$2.00 for each M.H. lot or Mobile Home lot but not less than \$25.00 for an entire park. A license shall not be transferred from one property owner to another without payment of a new license fee. License applications shall be filed with the City Clerk at least 30 days, but not more than 60 days, before the beginning of the license term. (1790 03/14/95)

- (b) License Application. The application for a license or a renewal thereof shall include the following information:

1. Name and address of applicant(s) and owner(s) of park site. If fee simple title in any portion of a park is vested in any person other than the applicant, written authorization signed by the property owner must be furnished stating that the applicant is authorized to operate and maintain the park and to make application for a M.H. licensee therefore.
2. Legal description of the property upon which the park is located.
3. Any modifications or changes proposed to be made in or to the park during the license year and any modifications or changes made in or to the park in the previous license year and which were not reported on the prior year's license application form.
4. Such other information as shall be required by the City Administrator, City Engineer, Street Superintendent, Utility Superintendent, Building Inspector, or Fire Chief. (2033 11/14/2000)

- (c) Inspection. No park license shall be issued until the City Clerk shall notify the Chief of Police, City Health Officer, Fire Chief, Utility Superintendent, Street Superintendent, and Building Inspector of such application and these officials shall inspect, or cause to be inspected, the application and the premises to determine whether

the applicant and the premises on which an M.H. will be located comply with this Code, the State Administrative Rules, and the state and local ordinances applicable thereto. These officials shall furnish to the Council, in writing, the information derived from such investigation and a statement as to whether the applicant and the premises meet the requirements of the department for which the officer is certified. No license shall be renewed without a re-inspection of the premises. For the purpose of making inspections and securing enforcement, such officials, or their authorized agents, may enter on any premises on which an M. H. or Mobile Home is located, or is proposed to be located, and inspect the same and all accommodations connected therewith at any reasonable time. The failure of any officer to complete his/her inspection in a timely manner shall be deemed a favorable recommendation. (2033 11/14/2000)

- (d) Withholding License. The Common Council may withhold the issuance of any park license until the park operator satisfies the Council that all monthly parking permit fees due the City have been paid and that the park fully complies with all the requirements of this section and the applicable state statutes and administrative regulations and with the other provisions of this Code.

(9) MINIMUM REQUIREMENTS FOR ALL M.H. PARKS, ADDITIONS OR EXTENSIONS. All M.H. parks and all modifications, additions or extensions to existing M.H. parks or mobile home parks shall comply with the following minimum requirements:

- (a) City Water and Sanitary Sewerage Required. No M.H. park shall be laid out, constructed or operated without City water service and sanitary sewer service. All water or sanitary sewerage facilities in any M.H. or Mobile Home not connected with public water or sewer systems by approved pipe connections shall be sealed and its use is hereby declared unlawful.
- (b) Water Service. Individual valved water service connections shall be provided for direct use of each unit, so constructed and installed that it will not be damaged by frost or

parking of the unit. Water systems shall be adequate to provide pure, potable water supply of six (6) gallons per minute at a minimum pressure of twenty (20) psi and capable of furnishing a minimum of one hundred fifty (150) gallons per unit per day. Fire hydrants shall be installed within five hundred (500) feet of every M.H. site and park building or at such other distance authorized in writing by the Fire Chief on the face of the Park Plan filed with the City.

- (c) Sanitary Sewerage Service. All liquid wastes originating at units, service or other buildings shall be discharged into a sewerage system extended from and connected with the public sewerage system. Such systems shall comply with all provisions of the State Code and City Ordinances relating to plumbing and sanitation. Each individual M.H. space shall be provided with a three (3) inch watertight sewer connection protected from damage by heaving and thawing or parking of the M.H. and located within the rear one third (1/3) of the site, with a continuous grade which is not subject to surface drainage, so constructed that it can be closed when not in use and trapped in such a manner that it can be kept odor free. Adequate provision shall be made for the disposal of solid and liquid wastes in a manner approved by the City.
- (d) Underground Utilities. All television cable systems, electrical and telephone distribution lines and oil or gas piping serving the park or spaces therein shall be installed underground. Distribution systems shall be new and all parts and installations shall comply with all applicable federal, state and local codes.
- (e) Electrical Service. Each M.H. space shall be provided with a weatherproof electrical over current protection device, disconnect means and branch service of not less than 100 amperes for two hundred twenty (220) volt service located adjacent to the water and sewerage outlets. Receptacles shall be of the four (4) pole four (4) wire grounding type and have a four (4) prong attachment for 110-120 volts.
- (f) Off-Street Parking. A minimum of two (2) off-street parking spaces

surfaced with bituminous or concrete or other approved similar material capable of carrying a wheel load of four thousand (4,000) pounds shall be provided for each M.H. space.

- (g) Drainage Plan. Conditions of soil, ground water level drainage and topography shall not create hazards to the property of occupants of M.H. spaces or to be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion of the park subject to unpredictable and/or sudden flooding or erosion shall be used for any purpose which would expose persons or property within or without the park to hazards. The ground surface in all parts of every M.H. park shall be graded and equipped to drain all surface water in a safe, sanitary and efficient manner. Curb and gutter may be required in order to provide a suitable drainage plan.
- (h) Ground Cover. Exposed ground surfaces in all parts of every M.H. park shall be paved or covered with stone screenings or other solid material or protected with a vegetative growth that is capable of preventing soil erosion and eliminating objectionable dust.
- (i) Lighting. All parks shall be furnished with lighting so spaced and equipped with luminaries placed at such heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:
 - 1. All parts of each park street: a minimum of 0.1 footcandles.
 - 2. Potentially hazardous locations, such as major park street intersections and steps or stepped ramps, individually illuminated, with a minimum of 0.3 footcandles.
- (j) Streets. All M.H. spaces shall abut upon a street. All streets shall be provided with a smooth surface, paved with bituminous or concrete or other approved similar material and which shall be well drained under normal use and weather conditions for the area. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Grades of streets shall be sufficient to insure adequate surface drainage but not

more than eight percent (8%), provided a maximum grade of twelve percent (12%) may be used if approved by the City Engineer, as safe and designed to avoid traffic hazards. Streets shall be at approximately right angles within one hundred (100) feet of an inter-section. Intersections of more than two (2) streets at one (1) point shall not be allowed. A distance of at least one hundred fifty (150) feet shall be maintained between center lines of offset intersecting streets.

- (k) Sidewalks. All parks shall be provided with pedestrian walks paved with bituminous or concrete or other approved similar material between individual M.H. sites, park streets, recreational areas and community facilities. Grade and surfacing of walks shall be approved by the City Engineer as safe and comparable to sidewalks in other areas of the City subject to similar usage.
- (l) Buffer Area. All M.H. Parks shall have a green belt or buffer strip not less than the permitted minimum width as measured at right angles along all boundaries of the park including exterior boundaries adjoining a public street. Plant materials of such variety and growth habits as to provide a year round, effective visual screen when viewed from each boundary shall be planted in the buffer strip, except where the adjoining property is also a Manufactured Home Park. Compliance with this requirement shall be made within two years from the granting of the M.H. Park permit. The portion of the buffer strip facing any adjoining property shall be attractively maintained. Permanent planting shall be grown and maintained at a height of not less than six feet. Fencing may be used in lieu of planting materials to provide said screening. The fencing shall be of such material as to effectively screen the park area and the fencing materials shall be approved by the Plan Commission. Fencing shall conform with City and State fencing laws. The buffer strip shall not be devoted to or used for the parking of vehicles, accessory uses, recreational areas or parks, the storage of any equipment or material, or as a sidewalk, street or driveway or for any purpose other than as an attractively maintained green belt screening area or planting requirements in a buffer area may be

modified by the Plan Commission if it finds that the exterior architectural appeal and functional plan of the M.H. Park, when completed, will be materially enhanced by modification of such screening requirements.

- (m) Signs. No signs shall be erected in M.H. parks except non-illuminated signs pertaining to the lease, hire or sale of an individual M.H. not more than two (2) square feet in area and one (1) M.H. park identification sign not more than fifty (50) square feet in area at each park entrance.
- (n) Recreational Areas. No less than ten percent (10%) of the total area of any M.H. park established under these regulations shall be devoted to common recreational areas and facilities, such as playgrounds, swimming pools, community buildings and play areas for small children. Common recreational areas shall not include streets or parking areas, shall be closed to vehicle traffic, except emergency and service vehicles, and traffic hazards, and shall be improved, maintained and equipped for the uses intended. All recreation areas shall be easily accessible to all park residents. No single recreation area shall contain less than two thousand five hundred (2,500) sq. square feet and be a minimum of 40 feet wide.
- (o) Dilapidated M.H. Wrecked, damaged or dilapidated M.H. shall not be kept or stored in a M.H. park. The Building Inspector shall determine if a M.H. is damaged or dilapidated to a point which makes it unfit for human occupancy. Such M.H. are hereby declared to be a public nuisance. Whenever the Building Inspector or Common Council so determines, it shall notify the licensee and owner of the M.H. in writing that such public nuisance exists within the park or on lands owned by him/her giving him/her the findings upon which such determination is based and shall order such home removed from the park or site or repaired to a safe, sanitary and wholesome condition of occupancy within a reasonable time, but not less than thirty (30) days. City Codes pertaining to the regulation of a public nuisance shall apply to M.H. parks in the City.
- (p) Authority to Inspect Parks. The City Health Officer, Building Inspector, City Engineer, Street Superintendent, Utility Superintendent, Police Chief, Fire Chief or their lawful agents or employees are authorized and

directed to inspect M.H. parks at any reasonable time but not less than once in every twelve (12) month period to determine the health, safety and welfare of the occupants of the park and inhabitants of the City as affected thereby and the compliance of the operation, structures and activities therein with this section and all other applicable laws and regulations of the State and Ordinances of the City. (2033 11/14/2000)

- (q) Burning. Burning in M.H. shall comply with Ch. 9 of this Code.
- (r) Skirting. Each M.H. shall be skirted unless the home is placed within one (1) foot vertically of the stand with soil or other suitable material completely closing such space from view and entry by rodents and vermin. Areas enclosed by such skirting shall be maintained free of rodents and fire hazards. Storage under M.H.'s is prohibited.
- (s) Plumbing, Electrical, Building Codes Applicable. All plumbing, electrical, building and other work in, on or at any M.H. park shall be in accordance with the Ordinances of the City and the requirements of the State Plumbing, Electrical and Building Codes and the regulations of the State Board of Health. Licenses and permits granted under this Section grant no right to erect or repair any structure, to do any plumbing work, or to do any electric work.
- (t) Numbering of M.H. All M.H. shall be numbered in the same manner as set forth in Ch. 8 of this Code utilizing a numbering plan approved by the Fire Chief and Police Chief.
- (u) Fire Protection. The park shall be maintained free of litter, rubbish and other flammable materials. The park shall provide portable fire extinguishers of a type approved by the Fire Chief in all locations designated by the Chief and such extinguishers shall be maintained in good operating condition. Every area within the park designated as a fire lane by the Fire Chief shall be kept free and clear of obstructions.
- (v) Garbage Containers. Every M.H. home site shall be furnished with, and have in operation, one or more substantial, fly-tight, watertight, rodent proof container for the deposit of garbage and refuse in accordance with the Ordinances of the City and the regulations of the Street Superintendent and City Health Officer. Stands shall be provided for all

- refuse and garbage containers and each stand shall be designed to prevent tipping and minimize spillage and container deterioration and facilitate cleaning. (2033 11/14/2000)
- (w) Park Dumpsters. Each park shall place and maintain fly-tight, watertight, rodent proof refuse dumpsters of sufficient size and numbers and conveniently located and easily accessible to each M.H. site. The park shall provide for the sanitary and safe pick-up, removal and disposal of all refuse and garbage in a sanitary manner at least twice weekly between May 1 and October 15, and at least weekly at all other times. Each garbage pickup site shall be attractively maintained and shall be surrounded with fencing of such material which will effectively screen the site and prevent paper and debris from being blown or spread about, and will be reasonably inaccessible to animals. Removal and disposal of garbage and refuse shall be in accordance with the laws of the State of Wisconsin and the Ordinances and regulations of the City, including regulations promulgated by the Health Officer, Fire Chief, and Street Superintendent. (2033 11/14/2000)
- (x) Park Recycling. Each park shall provide and maintain recycling pickup sites conveniently located and easily accessible to each M.H. site. The park shall provide and maintain receptacles of sufficient size and numbers at each site to allow the collection and separation of recyclables and shall provide for sanitary and safe pickup, removal and disposal of all recyclables at least weekly. Each recycling pickup site shall be attractively maintained and shall be surrounded with fencing of such material which will effectively screen the site and prevent paper and debris from being blown or spread about, and will be reasonably inaccessible to animals. The collection, removal and disposal of recyclables from each M. H. Park shall be in accordance with the laws and regulations of the State of Wisconsin and the ordinances of the City, including regulations promulgated by the Street Superintendent. (2033 11/14/2000)
- (y) Special Conditions Established by Plan Commission. Any specific conditions established by the Plan Commission pursuant to the granting of a conditional use permit for an M.H. Park shall be deemed a specific minimum requirement for the operation of the park to which such condition applies.
- (z) Zoning District Requirements. Each park shall comply with all the requirements applicable to Manufactured Home (Type 1) Park Districts, Ch. 17 of this Code.
- (10) **BUILDING PERMIT REQUIREMENTS.** No person shall construct, alter or add to any M.H., structure, attachment or building in an M.H. park or on an M.H. space without a permit from the Building Inspector. This subsection shall apply to decks and carports. Construction on, or in addition to the exterior of an M.H., shall be of the same type of construction and materials as the M.H. affected. This Subsection shall not apply to addition of awnings, antennas or skirting to M.H.
- (11) **NON-CONFORMING PARKS.** M.H. parks or Mobile Home parks in existence and operating under a valid M.H. park license or Mobile Home park license on the effective date of this Section shall be exempt from the requirements hereof relating to density and site plan provided such use and occupancy complies with the applicable laws and ordinances in effect at the time of issuance of the original license. Each such licensee of a non-conforming park shall file an application for an M.H. park nonconforming use permit and the non-conforming permit shall specify those requirements of this section that shall apply to the non-conforming park. An existing M.H. park shall not increase its density without complying in all respects with this section and Ch. 17 of this Code. Existing parks shall be operated in other respects in accordance with this §12.12. All extensions, modifications or additions to lawfully licensed existing parks or facilities or structures therein shall comply with this section and Ch. 17 of this Code. Each mobile home or manufactured home (type 1) existing within a lawful non-conforming mobile home park or manufactured home park shall be deemed a separate non-conforming structure and non-conforming use and each such non-conforming mobile home or manufactured home (type 1) shall be subject to the provisions of Ch.7 of this Code regulating non-conforming uses. (1803 04/11/95)
- (12) **SURETY BOND.** Each applicant for an original or renewal license shall file with the City Clerk a bond in the sum of One Thousand Dollars (\$1,000.00) for each Fifty (50) mobile home spaces or fraction thereof guaranteeing the collection by the licensee of

the monthly parking permit fees as provided in subsection (5) of this Code and the compliance of licensee and the park management with the provisions of this section and §13 hereof. Such bond shall also be for the use and benefit and may be prosecuted and recovery had thereof by any person who may be injured or damaged by reason of the licensee violating any provision of this section.

(13) **ADDITIONAL RESPONSIBILITIES AND DUTIES OF PARK OPERATOR.**

- (a) Park Office. Every M.H. home park shall maintain in the park an office of the attendant or person in charge. A copy of the current park license issued by the City shall be posted therein and the park register shall at all times be kept in said office.
- (b) Information to be Furnished to City. Every park licensee shall operate the park in compliance with this section, with Ch. 17 of this Code, and with the regulations and ordinances of the City and with State laws and regulations and shall operate the park in compliance with the following:
1. Maintain a register of all park occupants, to be open at all times to inspection by state, federal and City officers, which shall show:
 - a. Names and addresses of all owners and occupants of each M.H.
 - b. Number of children of school age.
 - c. State of legal residence of each occupant.
 - d. Dates of entrance and departure of each M.H.
 - e. Make, model year, serial number or license number, and manufacturer of each M.H.
 2. Furnish information to the Treasurer and Assessor on each M.H. added to their park within 5 days after its arrival. This information shall be supplied on forms furnished by the Treasurer. Any licensee who fails to comply with this reporting requirement in a timely manner shall, upon conviction, be subject to a

penalty as provided in §25.04 of this Code, except the forfeiture, exclusive of costs and assessments, shall not exceed \$25.00. Each failure to report shall be regarded as a separate offense.

3. Notify park occupants of the provisions of this section and inform them of their duties and responsibilities and report promptly to the proper authorities any violations of this section or any other violations of law that may come to their attention.
4. Report to the City Health Officer all cases of persons or animals affected or suspected of being affected with any dangerous communicable disease.
5. Supervise the placement of each M.H. on its stand including securing of its stability and the installing of all utility connections and tie downs as required by this Code.
6. Maintain park grounds, buildings and structures free of insect and rodent harborage and infestation and accumulations of debris that may provide rodent harborage or breeding places for flies, mosquitoes and other pests.
7. Maintain the park free from growth of noxious weeds.
8. Allow inspections of park premises and facilities at reasonable times by municipal officials or their agents or employees.

(14) **ADDITIONAL RESPONSIBILITIES AND DUTIES OF PARK OCCUPANTS.**

- (a) General Compliance with Codes. Park occupants shall comply with all applicable requirements of this section and other applicable City Codes, and shall maintain their M.H. space, its facilities and equipment in good repair and in a clean and sanitary condition.
- (b) Proper Placement of M.H. Park occupants shall be responsible for proper placement of their M.H. on the M.H. stand and the proper installation of all utility connections in accordance with the instructions

of the park management and this Code.

- (c) Parking Fee Payment. Each owner or occupant of a nonexempt M.H. within a M.H. park shall remit to the licensee or authorized park management the monthly parking permit fee required by this Code.
- (d) Allow Access. It shall be the duty of every occupant of a park to give the park licensee or management, or his/her agent or employee, access to any part of such park or M.H. premises at reasonable times for the purpose of maintaining such repairs or alterations as are necessary to effect compliance with this section or any law or Ordinance of the State or City or lawful regulation or order adopted thereunder.
- (e) Home Occupation. No M.H. owner or occupant shall conduct in any M.H. or in any M.H. park any business or engage in any other activity which would not be permitted in a Residential-2 District (R-2) in the City.
- (f) Unlawful Discharge of Wastewater. No person shall discharge any wastewater on the surface of the ground within any M.H. park.
- (g) Unlawful Occupancy of Site. No person shall erect or place upon any M.H. space any permanent or temporary structure intended to be used for dwelling purposes or in connection with any M.H. unit except as specifically authorized by this Section.

(15) VIOLATIONS AND PENALTY.

- (a) Operation with Valid License. It shall be unlawful for any person to establish, operate, maintain or administer or permit to be established, operated or maintained upon any property owned, leased or controlled by him/her an M.H. park within the City without a valid, unexpired M.H. park license issued by the City Clerk and approved by the Common Council.
- (b) Revocation or Suspension of License. Licenses granted under this Section shall be subject to revocation or suspension by the Common Council for cause in accordance with §66.058(2), Wis. Stats., and the procedures in that Section shall be followed. "Cause" as used in this Subsection shall include, but not be limited to, the following:
 - 1. Failure or neglect to abide by any of the requirements of

this Section or the laws or regulations of the State of Wisconsin relating to M.H. or mobile home parks and their operation.

- 2. Conviction of any offense under the laws of the State or Ordinances of the City relating to fraudulent or misleading advertising or deceptive practices regarding the sale or renting of mobile homes or M.H.'s or the leasing or rental of M.H. spaces or the sale, lease or operation of park facilities.
 - 3. Operation or maintenance of the park in a manner that adversely affects health, safety or welfare of park occupants or the inhabitants of the City, including, but not limited to, repeated violations of laws or ordinances relating to health, sanitation, refuse disposal, fire hazards, morals or nuisances.
 - 4. Transfer or sale of an ownership interest in any M.H. space or the underlying land other than to another eligible licensee. Such action shall also subject the owner of the underlying land to all the requirements of the state or municipal subdivision control laws and regulations regardless of the size or number of lots or spaces so transferred or sold.
 - 5. Failure or neglect to comply with any conditional use or non-conforming use permit requirements established by the City for the Park as a condition of the granting of a conditional use permit for a Park or as a condition of the granting of a non-conforming permit for a park.
- (c) Penalty. Any person who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of, any of the provisions of this section shall be subject to a penalty as provided in §25.04 of this Code. Every day a violation occurs shall constitute a separate offense.
 - (d) Injunction. Any park, M.H., mobile home, building, or accessory structure hereafter erected, enlarged, altered, repaired, or moved, or any

use hereafter established, in violation of the provisions of this section shall be deemed unlawful. The Building Inspector shall promptly report all such violations to the City Attorney who shall be authorized to bring an action to enjoin the erection, enlargement, alteration, repair, moving or use thereof, or to cause such violation to be removed and such violations shall also be subject to a penalty as provided in §25.04 of this Code. In any such action, the fact that a permit was issued by the Building Inspector shall not constitute a defense. Compliance with the provisions of this section may also be enforced by an injunction order at the suit of the owner or owners of any real estate within the City.

12.13 RESERVED. (2072 01/22/2002; 2556 8/4/2020)

12.14 REGULATION OF ALARM SYSTEMS. (1833 09/26/95)

- (1) **PURPOSE.** The purpose of this section is to provide minimum standards and regulations applicable to burglar, fire and holdup alarm systems, alarm businesses and alarm uses. Both society in general and public safety in particular will be aided by providing a useful and usable system of private security which properly balances quick response by law enforcement with minimization of law enforcement time spent on alarms which are false or otherwise not the intended function of private security systems.
- (2) **DEFINITIONS.** For the purpose of this section, the terms, phrases and words and their derivations have the meaning defined herein:
 - (a) Alarm Business. Any business in which the owners or employees engage in the activity of altering, installing, leasing, maintaining, repairing, replacing, selling, or servicing alarm systems.
 - (b) Alarm System. An assembly of equipment and devices or signal device such as a solid state unit which plugs directly into a 110-volt AC line or otherwise receives electrical energy arranged to signal the presence of a hazard requiring urgent attention and to which the police or fire department is expected to respond. In this Section, the term "alarm system" shall include the terms "local alarm systems," "automatic hold-up alarm systems," "burglar alarm systems,"

"all hold-up alarm systems," "manual hold-up alarm systems," "fire protection system," and "interior alarm system" as those terms are hereinafter defined, and fire alarm systems which monitor temperature, humidity or any other condition directly related to the detection of fire. (1846 01/09/96; 2359 06/28/2011)

- (c) Annunciator. The instrumentation of an alarm console at the receiving terminal of a signal line through which both visual and audible signals show when an alarm device at a particular location has been activated or which, in the event of malfunction, may also indicate line trouble.
- (d) Answering Service. A telephone answering service providing among its services the service of receiving on a continuous basis through trained employees emergency signals from alarm systems, and thereafter immediately relaying the message by live voice to the dispatch center of the Police or Fire Department.
- (e) Automatic Dialing Device. An alarm system that automatically sends over regular telephone lines by direct connection or otherwise a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.
- (f) Automatic Holdup Alarm System. An alarm system in which the signal transmission is initiated by the action of the robber.
- (g) Manual Holdup Alarm System. An alarm system in which the signal transmission is initiated by the direct action of the person attacked or by an observer thereof.
- (h) Burglar Alarm System. An alarm system that signals an entry or attempted entry into the area protected by the system.
- (i) Direct Connect. An alarm system that has the capability of transmitting system signals to the dispatch center of the Police or Fire Department.
- (j) False Alarm. The activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner or lessee of an alarm system or of his employees or agents or other undetermined cause. The mere fact that a false alarm was activated accidentally by human error shall not be a defense to a false alarm charge.

False alarm does not include alarms caused by storms or other violent conditions.

- (k) Fire Protection System. Any fire alarm device or system or fire extinguishing device or system, or their combination, that is designed and installed for detecting, controlling, or extinguishing a fire or otherwise alerting occupants, or the fire department, or both that a fire has occurred, as defined in NFPA 1 Chapter 2 as adopted by Reference in Wisconsin Administrative Code Comm 14. (1846 01/09/96; 2359 06/28/2011)
 - (l) Interim Alarm System. An alarm system which gives a signal, visual or audible, or both, within the interior of the building in which it is located and which is used to alert or signal persons on the pre-mises in which the alarm system is located of an attempted or unauthorized intrusion, or hold-up attempt or fire. (1846 01/09/96)
 - (m) Interconnect. To connect an alarm system to a voice grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.
 - (n) Central Station. An office to which remote alarm and supervisory signaling devices are connected, where operators supervise the circuits.
 - (o) Primary Trunk Line. A telephone line leading directly into the dispatch center of the Police or Fire Department that is for the purpose of handling emergency calls on a person-to-person basis and which is identified as such by a specific number included among the emergency numbers listed in the telephone directory or numbers in sequence therewith.
 - (p) Local Alarm Systems. An alarm system in which the signal, either visual or audible, or both, is given on the exterior or interior portions of the location, but such signal does not leave the location to a central control receiving location.
 - (q) Locations. Any building, structure, property or premises within the City.
- (3) **ADMINISTRATIVE RULES.** The Chief of Police for the Police Department and the Fire Chief for the Fire Department

shall promulgate such rules for their respective departments as may be necessary for the implementation of this Section. Such rules shall require the approval of the Common Council and shall be open to inspection by the public.

- (4) **AUTOMATIC DIALING DEVICES.** No person shall interconnect any automatic dialing device to a Police or Fire Department primary trunk line. No person shall permit such devices, which were installed prior to the effective date of this Section, to remain interconnected from any property owned or controlled by that person. Such devices may be connected to a central station or an answering service. Relaying messages so received to the Police or Fire Department shall only be done person to person on the telephone line.
- (5) **DIRECT CONNECTIONS TO THE POLICE OR FIRE DEPARTMENT PROHIBITED.** Direct connections to the Police or Fire Department are prohibited.
- (6) **TESTING.**
 - (a) No alarm business or alarm system designed to transmit emergency messages to the Police Department or Fire Department shall be tested or demonstrated without prior notification and approval of the Police Chief for the Police Department and the Fire Chief for the Fire Department. Alarm businesses or alarm system owners or lessors will be advised on proper test procedure.
 - (b) No alarm system relayed through intermediate services to the Police Department or Fire Department will be tested to determine the Police Department's or Fire Department's response without first notifying the appropriate authority. However, the Police Department and/or Fire Department may inspect or test on-site alarm systems authorized under this Section.
 - (c) Alarm systems shall be in compliance with all pertinent response policies of the Police Department and/or Fire Department.
- (7) **NOTIFICATION OF DISRUPTED SERVICE.** When the service provided by an alarm business to its subscribers is disrupted for any reason by the alarm business or the alarm business becomes aware of such disruption, it shall promptly notify its subscribers by telephone that protection is no longer being provided. If, however, the alarm business has written instruction from its subscriber not to make such notification by telephone during

certain hours, the alarm business may comply with such instructions.

(8) FALSE ALARM VIOLATIONS AND SPECIAL CHARGES.

- (a) Generally. Each false alarm requires response of public safety personnel, involves unnecessary expense to the City, increases the risk of injury to persons or damage to property and dilutes the overall public safety protection to the City. Such false alarms constitute a public nuisance and must be abated.
- (b) Intentional. No person shall intentionally cause the activation of a burglar/fire alarm device knowing that no criminal activity, fire or other emergency exists.
- (c) False Alarms; Special Charges. Any person having a permissible alarm system with alarm device(s) at one or more locations in accordance with this section shall pay to the City Treasurer a special charge for false alarms responded to by the Police and/or Fire Department according to the following schedule for each location connected. Separate accounts shall be kept for false alarms as to criminal activity and false alarms for fire or other emergencies:
 - 1. All false alarms responded to by Police Department:
 - a. First false alarm for a location - as set forth in the City's Official Fee Schedule
 - b. Second and subsequent false alarm per location - as set forth in the City's Official Fee Schedule.
 - 2. All false alarms responded to by Fire Department fire fighting personnel and apparatus:
 - a. First false alarm for a location - as set forth in the City's Official Fee Schedule
 - b. Second and subsequent false alarm for each location - as set forth in the City's Official Fee Schedule

Where both the Police Department and Fire Department respond to a false alarm, a special charge for both departments shall be imposed as provided above. This Subsection is intended to impose a strict liability on the person, business, corporation or other entity responsible for alarm connection to which the Police and/or Fire Department have responded and shall be applied regardless of the cause

of the false alarm excepting those alarms excluded from the definition of "False Alarm." The mere fact that a false alarm was activated accidentally or by human error or mistake shall not be a defense to a false alarm violation or a special charge.

- (d) Waiver of Fee. If a possessor of an alarm system shows to the satisfaction of the Chief of Police or the Fire Chief, as applicable, that a false alarm was not the result of negligence or improper maintenance, or other good and sufficient cause beyond the reasonable control of the possessor of the alarm, such fee may be waived and the response shall not count as a false alarm in computing the fee established under Subsection (c) hereof.

- (9) **DISCLAIMER OF LIABILITY.** The City shall be under no duty or obligation to a subscriber or to any other person for any defects, malfunctions, delays or any other matter arising out of the use or activation of an alarm system and the City shall not be liable for any defects in an alarm system or the central receiving dispatch or any transmission, malfunctions, delays or other delay or non-response to any alarm system.

- (10) **COLLECTION OF SPECIAL CHARGES.** In addition to any other penalty imposed by this Code for false alarms responded to by the Police Department and/or Fire Department, the special charge imposed under Subs. (8)(c) shall be collected as a debt from the owner or occupant of the location where the Police or Fire Department responded to the false alarm. If the special charge is not paid within 30 days of the date of billing, an additional administrative collection charge of 10% of the charge shall be added to the amount due, plus interest shall accrue thereon at the rate of 1% per month until paid and such charge shall be ex-ended upon the current or next tax roll of the location as a special charge for current services as provided in §66.0627, Wis. Stats.

- (11) **PERMITS FOR PRIVATE ALARM SYSTEMS.**

- (a) Permit Required. No person shall install an alarm system in or upon any location in the City until a permit therefore has been issued by the Police Chief or Fire Chief. (1846 01/09/96; 2359 06/28/2011)
- (b) Interior Alarms. A permit under this section is not required for an alarm system which gives a signal, visual or audible or both, solely within the

interior of the building in which it is located.

(12) **APPLICATION PROCEDURE.**

(a) General. Application for a permit shall be submitted to the Police Chief or Fire Chief on a form supplied by the City, together with the fee as provided in sub. (c) below. The Chief receiving the application shall promptly notify the other Chief of any applications for installation of an alarm system.

(b) Permit Fee. The permit fee shall be as set forth in the City's Official Fee Schedule. If there are two or more separate systems or a single system with two or more functions, a separate fee shall be required for each system or function.

(c) Issuance of Permit. Upon approval of the alarm system by the Police and Fire Chief and completion of the application requirements by the applicants, the Chief shall grant and issue the permit. Permits shall be issued to the party who owns or occupies the location of the alarm system. Where the crime or occupant of the location is changed a new permit shall be required. (2359 06/28/2011)

(13) **OPERATIONAL REQUIREMENTS.**

(a) Duty to Maintain Alarm System. The permittee shall be responsible for maintaining the alarm system in proper working order. All alarm systems shall be equipped with batteries in working order.

(b) Duty to Respond to Alarm. The permittee shall be responsible for responding in case the alarm is activated for the purpose of providing access to the building or premises for police officers and/or firefighters, and for resetting the alarm. Under no circumstances shall a member of the police department or fire department reset an alarm.

(c) Time Delay and Shutoff. All alarm systems for security purposes shall be equipped with a time delay in case the alarm is accidentally tripped. All local alarms shall be equipped with a 15 minute automatic shutoff or other secure means of turning off the alarm.

(14) **REVOCATION OR NON-ISSUANCE OF PERMIT.**

(a) Grounds for Revocation or Non-Issuance of Permit. The Police or Fire Chief may revoke a permit or refuse to issue a permit for a private

alarm system on the following grounds: (2359 06-28-2011)

1. The application for a permit contains a false statement of a material fact.

2. The applicant or permittee has repeatedly failed to comply with the provisions of this section.

3. An alarm system repeatedly actuates false alarms.

(15) **APPEALS.** Any person aggrieved by a determination under this section may have a written or oral determination reviewed by appeal to the Administrative Review Board pursuant to the provisions of Ch. 6 of this Code.

(16) **PENALTY.** In addition to the penalties provided in this section, any person who shall violate any provision of this section or any order, rule or regulation made hereunder or who shall permit or cause a nuisance under this section shall be subject to a penalty as provided in §25.04 of this Code.

12.15 REGULATION OF SEXUALLY ORIENTED BUSINESSES. (1748 07/05/94; 2376 04/10/2012)

WHEREAS, sexually oriented businesses may be regulated in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the communities where they locate; and

WHEREAS, the Common Council finds that sexually oriented businesses, as a category of establishments, are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, there is convincing documented evidence that sexually oriented businesses, as a category of establishments, have deleterious secondary effects and are often associated with crime and adverse effects on surrounding properties; and

WHEREAS, the Common Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from crime; preserve the quality of life; preserve the character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, the Common Council wants to prevent these adverse effects and thereby protect the health, safety and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by

the U.S. Constitution or the Wisconsin Constitution, but to enact legislation to further the content-neutral governmental interests of the City of Baraboo, including the controlling of secondary effects of sexually oriented businesses; and

WHEREAS, as required by §66.0103, Wis. Stats., a copy of this ordinance creating §12.15 relating to sexually oriented land uses has been on file and open for public inspection in the office of the City Clerk for not less than two weeks and notice thereof was given by publication on March 12 and 19, 2012, in the Baraboo News Republic, the official newspaper of the City.

(1) PURPOSE AND FINDINGS.

(a) Purpose. It is the purpose of this ordinance to establish reasonable and uniform regulations of sexually oriented businesses in order to address the adverse secondary effects associated with these businesses and thereby promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

(b) Findings. While the Common Council recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights, based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Council, and on findings incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986);

Young v. American Mini Theatres, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *Andy's Restaurant & Lounge, Inc. v. City of Gary*, 466 F.3d 550, 554 (7th Cir. 2006); *R.V.S., L.L.C. v. City of Rockford*, 361 F.3d 402 (7th Cir. 2004); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631, 639-40 (7th Cir. 2003); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Pleasureland Museum, Inc. v. Beutter*, 288 F.3d 988, (7th Cir. 2002); *Blue Canary Corp. v. City of Milwaukee*, 270 F.3d 1156 (7th Cir. 2001); *Blue Canary Corp. v. City of Milwaukee*, 251 F.3d 1121 (7th Cir. 2001); *Schultz v. City of Cumberland*, 228 F.3d 831 (7th Cir. 2000); *DiMa Corp. v. Town of Hallie*, 185 F.3d 823 (7th Cir. 1999); *North Avenue Novelties, Inc. v. City of Chicago*, 88 F.3d 441 (7th Cir. 1996); *Matney v. County of Kenosha*, 86 F.3d 692 (7th Cir. 1996); *J.L. Spoons, Inc. v. Dragani*, 538 F.3d 379, 381-82 (6th Cir. 2008), *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *Deja Vu of Nashville, Inc. v. Metro. Gov't of Nashville*, 466 F.3d 391 (6th Cir. 2006); *Deja Vu of Nashville, Inc. v. Metro. Gov't of Nashville*, 421 F.3d 417, 418 (6th Cir. 2005); *Deja Vu of Nashville, Inc. v. Metro. Gov't of Nashville*, 274 F.3d 377, 388 (6th Cir. 2001); *Daytona Grand, Inc. v. City of Daytona*, 490 F.3d 860 (11th Cir. 2007); *Bronco's Entm't v. Charter Twp. of Van Buren*, 421 F.3d 440 (6th Cir. 2005); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Lim v. City of Long Beach*, 217 F.3d 1050 (9th Cir. 2000); *Fantasyland Video, Inc. v. County of San Diego*, 373 F.Supp.2d 1094 (S.D. Cal. 2005); *BGHA, LLC v. City of Universal City*, 210 F.Supp.2d 821 (W.D. Tex. 2002); *Wolfe v. Village of Brice*, 37 F.Supp.2d 1021 (S.D. Ohio 1999); *City of Chicago v. Poob Bah Enterprises, Inc.*, 2006 WL 2827608 (N.D. Ill. 2006); *Sensations, Inc. v. City of Grand Rapids*, 2006 WL 2504388 (W.D. Mich. 2006); *Sensations, Inc. v.*

City of Grand Rapids, 2006 WL 5779504 (W.D. Mich. 2006); *Schmitt's v. City of Fond du Lac*, 391 F.Supp.2d 745 (E.D. Wis. 2005); *Illinois One News, Inc. v. City of Marshall*, 2006 WL 449018 (S.D. Ill. 2006), *Annex Books, Inc. v. City of Indianapolis*, 581 F.3d 460, 462 (7th Cir. 2009), *Annex Books, Inc. v. City of Indianapolis*, 624 F.3d 368 (7th Cir. 2010), *New Albany DVD, LLC v. City of New Albany*, 581 F.3d 556 (7th Cir. 2009), *Alameda Books, Inc. v. City of Los Angeles*, 631 F.3d 1031 (9th Cir. 2011), *Peek-a-Boo Lounge of Bradenton v. Manata County*, 630 F.3d 1346 (11th Cir. 2011), *Flanigan's Enterprises, Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010), *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011), *Borough of Sayreville v. 35 Club, LLC*, 33 A.3d 1200 (N.J. 2012), and other cases, as well as findings from papers, articles, studies and information from other communities including, but not limited to Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and also on findings from the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and based upon all of this, the Council's findings include the following:

1. That the foregoing cases, studies, reports and other materials are reasonably believed to be relevant to the problems that the City of Baraboo is seeking to abate and prevent in the future.
2. Sexually oriented businesses are associated with a wide-variety of harmful secondary effects which include but are not limited to the following: (a) illicit drug use, illicit and unsanitary sexual activity including prostitution and other unlawful sex-related offenses, as well as other personal and property crimes and offenses, (b) decreased desirability of and

depreciation of property values in surrounding neighborhoods and properties, (c) health risks associated with the spread of sexually transmitted diseases, and (d) the potential for infiltration by organized crime for the purpose of unlawful conduct.

3. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that may be uncontrolled by the operators of the establishments.
4. Certain employees of sexually oriented businesses defined as adult theatres and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.
5. Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, including those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
6. Persons frequent certain adult theatres, adult cabarets, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
7. Communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, and hepatitis.
8. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those

- activities and maintain those facilities.
9. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses.
 10. Sexually oriented businesses have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, including increased crime and the downgrading of property values.
 11. Sexually oriented businesses in which live, totally nude, non-obscene, erotic dancing occurs may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the City.
 12. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
 13. A reasonable licensing procedure is an appropriate mechanism to place the burden of reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
 14. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theatres.
 15. The general welfare, health, morals and safety of the citizens of the City will be promoted by the enactment of this ordinance.
 16. The findings noted in paragraphs 1 through 15 raise substantial governmental concerns.
- (c) Determinations. Therefore, the Common Council has determined that sexually oriented businesses should be regulated in order to promote the goal of addressing the negative secondary effects associated with sexually oriented businesses and that the City has a substantial government interest in regulating such businesses.
- (2) DEFINITIONS.
- (a) “Adult bookstore,” “adult novelty store” or “adult video store” means a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale or rental, for any form of consideration, of any one or more of the following:
1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
 2. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for the stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.
 3. An establishment may have other principal

business purposes that do not involve the offering for sale rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.

- (b) “Adult cabaret” means a nightclub, bar, restaurant, or similar commercial establishment that regularly features live performances by topless dancers, strippers, or similar entertainers which are characterized by the exposure of specified anatomical areas or by specified sexual activities.
- (c) “Adult motion picture theater” means an enclosed establishment with a capacity of 50 or more persons where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly featured which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (d) “Booth,” “room,” or “cubicle” means such enclosures as are specifically offered to the public or members of a sexually oriented business for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure, which shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, “booth,” “room,” or “cubicle” does not mean such enclosures that are restrooms nor does it mean private

offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, are not open to any persons other than employees. Nor shall this definition apply to hotels, motels, or other similar establishments licensed by the State of Wisconsin pursuant to Chapter 254 of the Wisconsin Statutes.

- (e) “Characterize” means to describe the essential character or quality of, or to be a distinguishing characteristic.
- (f) “Employee” means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
- (g) “Establishment” means any of the following:
 1. The opening or commencement of any sexually oriented business as a new business;
 2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 3. The additions of any sexually oriented business to any other existing sexually oriented business; or
 4. The relocation of any sexually oriented business.
- (h) “Nudity,” “nude,” or “state of nudity” means the showing of the human genitals, anus or a female's breast with less than a fully opaque covering of any part of the nipple and areola. Nudity does not include a woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

- (i) “Operate” or “cause to operate” means to cause to function or to put or keep in a state of doing business.
 - (j) “Owner” or “operator” means any person on the premises of a sexually oriented business who exercises overall operational control of the business or a part of the business, who can open or close the business to the public, or who causes to function or who puts or keeps the business open or in operation. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner or part owner or licensee of the business.
 - (k) “Person” means an individual, proprietorship, partnership, corporation, association, or other legal entity.
 - (l) “Regularly features” or “regularly featured” means giving special prominence at uniform, orderly intervals on a permanent basis, or always features.
 - (m) “Sexually oriented business” means an adult bookstore, adult novelty store, adult video store, adult cabaret, or adult motion picture theater.
 - (n) “Specified anatomical areas” means:
 - 1. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - 2. Less than completely and opaquely covered human genitals, and human female breast below a point immediately above the top of the areola.
 - (o) “Specified Sexual Activities” means:
 - 1. Human genitals in a simulated or actual state of sexual stimulation or arousal;
 - 2. Actual sex acts, normal or perverted, including intercourse, oral copulation, masturbation, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; or
 - 3. Excretory functions as part of or in connection with any of the activities set forth in (1) through (2) above.
- (3) **CLASSIFICATION.** Sexually oriented businesses are classified as follows:
- (a) Adult bookstores, adult novelty stores, or adult video stores;
 - (b) Adult cabarets; or
 - (c) Adult motion picture theaters.
- (4) **LOCATION RESTRICTIONS.** Sexually oriented businesses shall be permitted uses in the zoning districts set forth in the City Zoning Ordinance (Chapter 17 of the Municipal Code), provided that:
- (a) The parcel upon which the sexually oriented business operates may not be within five hundred (500') feet of any residentially zoned parcel.
 - (b) A sexually oriented business may not be operated in the same building, structure, or portion thereof containing another sexually oriented business that is classified in accordance with Section (3).
 - (c) For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the parcel used as part of the premises where a sexually oriented business is conducted, to the nearest property line of the residentially zoned district.
- (5) **INSPECTION.**
- (a) An operator of a business classified in section (3) shall permit representatives of the Police Department, Fire Department, Zoning Department, or other City departments or agencies to inspect the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with this ordinance, at any time the sexually oriented business is occupied by patrons or open for business.
 - (b) A person who operates a sexually oriented business or his agent or employee commits a violation of this ordinance if he refuses to permit such lawful inspection of the premises.
- (6) **HOURS OF OPERATION.** No sexually oriented business may remain open at any time between the hours of two o'clock (2:00) A.M. and nine o'clock (9:00) A.M.
- (7) **AGE REQUIREMENT.**
- (a) No person under the age of 18 shall enter the establishment of a sexually oriented business.
 - (b) An owner, operator, employee or licensee of a sexually oriented

business shall not permit a person under 18 years of age to be employed by or to enter the establishment.

- (c) A sexually oriented business shall, at all times, cause the entrance of the establishment to be so attended as to insure compliance with the requirements contained herein.
- (8) **NUDITY AT SEXUALLY ORIENTED BUSINESSES PROHIBITED.** No person shall knowingly or intentionally, in a sexually oriented business other than an adult cabaret, appear before a patron or patrons in a state of nudity. Any sexually oriented business which is found in violation of this section shall be subject to a forfeiture in accordance with §25.04, Ordinances.
- (9) **UNLAWFUL ACTIVITIES.** Nothing contained in this ordinance is intended, or shall be construed, to permit or authorize activities which are unlawful under state law or City ordinance. It is unlawful and a violation of this ordinance for an operator to knowingly or intentionally violate the provisions of this Ordinance or to allow, either knowingly or intentionally, an employee or a patron to violate the provisions of this ordinance. It shall be a defense to prosecution that the person prosecuted was powerless to prevent the violation.
- (10) **REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY-EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIDEO ROOMS, BOOTHS OR CUBICLES.**
 - (a) A person who operates or causes to be operated a sexually oriented business which exhibits on the premises in a viewing room, booth or cubicle of less than 150 square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
 - 1. It is the duty of the operator or manager of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
 - 2. The interior of the premises shall be

configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

- 3. It shall be the duty of the licensee to ensure that the view area specified in Section (2) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks, objects, or other materials.
- 4. No viewing room may be occupied by more than one person at any time.
- 5. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 5 footcandles as measured at the floor level.
- 6. It shall be the duty of the operator or manager to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- 7. No holes shall be allowed in the walls or partitions which separate each viewing room from an adjoining viewing room or restroom. No operator or manager shall allow openings of any kind to

exist between viewing rooms or booths.

8. The operator or manager shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.
9. All floor coverings in viewing booths or rooms shall be nonporous, easily cleanable surfaces, with no rugs or carpentry. All wall surfaces and ceiling surfaces shall be constructed of, or permanently covered by, nonporous, easily cleanable material. All floor and wall coverings shall be cleaned on a daily basis so as to keep them free from semen, urine, feces, needles, and trash. No wood, plywood, composition board, or other porous material shall be used within 48 inches of the floor

(11) EXEMPTIONS. The provisions of this ordinance do not apply to the following:

- (a) Theaters, performing arts centers, civic centers, exhibition halls, restaurants, dinner theaters and similar establishments where live dance, ballet, music and dramatic performances of serious artistic, social or political expression are offered to the general public, with or without paid admission; or movie theaters, video arcades or other places offering theatrical performances where video or motion picture presentations of dance, ballet, music and dramatic performances of serious artistic, social or political expression are offered to the general public, with or without paid admission.
- (b) Lavatories, restrooms and bathrooms on the licensed premises where there is unintentional exposure of genitals by individuals performing excretory functions, or dressing rooms during an employee's bona fide use of a dressing room which is accessible only to employees.
- (c) The private areas or guest rooms not accessible to the general public of those hotels, motels, rooming houses, or bed and breakfast businesses in the City which hold an

Operator's License under Chapter 125 of the Wisconsin Statutes or the City Code.

- (d) The rental or sale of video cassettes, DVD videodiscs, or other electronic media for private viewing by individuals off the licensed premises.
- (e) Exposure of any portion of the female breast while a person is engaged in breast-feeding a child.
- (f) In a modeling class operated:
 1. By a college, junior college, or university supported entirely or partly by taxation;
 2. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 3. In a structure:
 - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;
 - b. Where, in order to participate in a class a student must enroll at least three days in advance of the class; and
 - c. Where no more than one nude model is on the premises at any one time.

(12) PENALTY; EQUITABLE REMEDIES.

- (a) Any violation of any provision of this ordinance, or any lawfully issued order of the Zoning Administrator, Planning Commission, Common Council, or their designated representative issued in pursuance of this ordinance shall be a municipal civil infraction as described in §25.04 of the Municipal Code. Each day that a violation is permitted to exist or occur, and each separate occurrence, shall constitute a separate offense.
- (b) Any premises, building, dwelling, or other structure in which a sexually oriented business is repeatedly operated or maintained in violation of the provisions of this Ordinance

shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the City of Baraboo in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation.

- (c) Notwithstanding the above subsections, the City may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of this ordinance. A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this ordinance is subject to a suit for injunction as well as prosecution for violations of such ordinance. Such violations shall be punishable by a forfeiture as set forth in §25.04 of the Municipal Code. Each day a sexually-oriented business so operates is a separate offense or violation.

- (13) SEVERABILITY. This ordinance and its various parts, sections, subsections, sentences, phrases and clauses are declared to be independent and severable. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any part, section, subsection, sentence, phrase or clause, or the application thereof to any person or circumstance, is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so held to be invalid.

- (14) REPEAL. All ordinances or orders in conflict in whole or in part with any of the provisions of this ordinance are, to the extent of such conflict, repealed.

12.16 WEIGHTS AND MEASURES REGULATION. (1889 11/12/96)

- (1) APPLICATION OF STATE CODES. Except as otherwise specifically provided in this section, the statutory provisions of Ch. 98, Weights and Measures, Wis. Stats. and Wis. Adm. Code, ATPC 92, Weighing and Measuring Devices, are hereby adopted and by reference made a part of this section

as if fully set forth herein. Any act required to be performed or prohibited by any statute or code incorporated herein by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the statutes incorporated herein or Wis. Adm. Code provisions incorporated herein are intended to be made a part of this section. This section is adopted pursuant to the provisions of Ch. 98, Wis. Stats.

- (2) APPOINTMENT OF INSPECTORS. In order to assure compliance with this section, the City hereby grants the authority and duties of sealers and inspectors required by this section to the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.

- (3) DEFINITIONS.

- (a) “Commercial Weighing or Measuring Devices.” Devices used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.

- (b) “Weights and Measures Program.” The program that includes administration and enforcement of this section, Ch. 98, Wis. Stats., and applicable Wis. Adm. Code provisions, and any related actions.

- (4) WEIGHTS AND MEASURES LICENSE REQUIRED.

- (a) License Requirements. Except as provided in subs. (b), no person shall operate or maintain any commercial weighing or measuring devices or any other weights and measures or systems and accessories related thereto which are used commercially within the City of Baraboo for determining the weight, measure or count of commodities or things sold or offered or displayed for sale on the basis of weight, measure or count unless each such device is licensed by an annual weights and measures license issued pursuant to the provisions of this section.

- (b) Exemptions. Occasional sales temporarily permitted by a special event permit, or sales permitted at the Farmers Market established pursuant to this chapter, or sales permitted by Direct Sellers, Transient Merchants and Solicitors are exempt from licensing under this section.

- (5) **APPLICATION FOR LICENSE.** An application for a weights and measures license shall be made in writing on a form provided for such purpose by the City Clerk and shall be signed by the owner of the commercial business, or by its authorized agent. Such application shall state the type and number of weighing and measuring devices to be licensed, the location of the devices, the applicant's full name and post office address, and whether such applicant is an individual, partnership, limited liability company, corporation or other entity. If the applicant is a partnership, the application shall state the names and addresses of each partner. If the applicant is a corporation or limited liability company, the application shall state the name and address of all officers and agents of the applicant, including the registered agent thereof.
- (6) **ISSUANCE OF LICENSE AND FEES.** Upon compliance with this section, the City Clerk shall issue a license to the applicant upon payment of an annual license fee as set forth in the City's Official Fee Schedule. Each store or other business location shall require a separate license. The license fee shall not be prorated for a partial year.
- (7) **LICENSE TERM.** A license issued under this section shall expire on December 31 of each year.
- (8) **ENFORCEMENT FOR NON-RENEWAL.** It shall be the duty of the City Clerk to notify the appropriate City officials and to order the immediate enforcement of the provisions of this section in cases involving a failure to renew a weights and measures license. A licensee shall be prohibited from operating or maintaining a weighing or measuring device until such time as a valid license has been obtained under the provisions of this section.
- (9) **FEES ASSESSMENT.**
- (a) Annual Assessment. The Council shall annually assess fees to each licensee based on the number and types of weighing and measuring devices licensed as of January 1 of each year. The total of the fees assessed and the fees collected shall not exceed the actual costs of the Weights and Measures Program.
- (b) Clerk to Prepare Assessment Schedule. The City Clerk shall at least annually prepare a proposed schedule of assessments and the Clerk's proposed schedule shall be submitted to the Council. A copy

of the proposed schedule together with notice of the date and time at which the Council will consider the assessments shall be mailed to each licensee.

- (c) Council Determines Assessment. At least 10 days after such mailing, the Council shall consider the Clerk's proposed schedule of assessments and determine the schedule of assessments on a reasonable basis. The City Clerk shall mail to each licensee an invoice for the amount of the fee assessed to the licensee as determined by the Council and each licensee shall pay the fee assessed within 30 days after the date the invoice is mailed.
- (d) Failure to Pay Assessment. If the assessed fee is not paid within 30 days of the date of mailing of the invoice, an additional administrative collection charge of 10% of the fee shall be added to the amount due, plus interest shall accrue thereon at the rate of 1% per month until paid. If the licensee is the owner of the real estate premises where the licensed weights and measures devices are located, any delinquent assessment shall be extended upon the current or the next tax roll as a charge against the real estate premises for current services, as provided in §66.0627, Wis. Stats. No license shall be issued or renewed under this section if the licensee is delinquent in the payment of a fee assessed under this section.
- (e) Mailing of Notices. Schedules, notices and invoices shall be considered mailed to a licensee when mailed by first class mail, postage prepaid, to the licensee at the licensee's address as shown on the application form.
- (f) Change of Ownership. If the ownership of a commercial business licensed under this section is transferred during a license year, the owner of the business as of January 1 of the license year shall be liable and responsible for the payment of the fees assessed under this section.

12.17 SPECIAL REGULATIONS FOR JULY 01 THROUGH JULY 04, 2004 CIRCUS DAYS CELEBRATION. This ordinance sunsets or repeals automatically on July 5, 2004. See original Ordinance No. 2147 in the Ordinance Book on file in the City Clerk's office. (2147 04/13/04)

12.18 PENALTY. Except as otherwise specifically provided in this chapter, any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in §25.04 of this Code.